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## SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1885.

No. 148.

THE INHABITANTS OF THE TOWNSHIP OF NEW PROVIDENCE, IN THE COUNTY OF UNION AND STATE OF NEW JERSEY, PLAINTIFFS IN ERROR,

*vs.*

ABRAHAM HALSEY.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF NEW JERSEY.

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**FILED OCTOBER 27, 1882.**

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1 Supreme Court of the United States.

THE INHABITANTS OF THE TOWNSHIP OF NEW PROVIDENCE IN THE COUNTY OF UNION
*vs.*
ABRAHAM HALSEY.

Know all men by these presents, that we, Amos Potter and Cornelius A. Runkle, are held and firmly bound unto Abraham Halsey, of California, in the sum of five hundred dollars, to be paid to the said Abraham Halsey, his executors, or administrators; to which payment, well and truly to be made, we bind ourselves, and each of us, jointly and severally, and our, and each of our, heirs, executors, and administrators, firmly by these presents.

Sealed with our seals. Dated this 16th day of May, 1882.

Whereas the above named, The Inhabitants of The Township of New Providence in the County of Union, have prosecuted a 2 writ of error in the Supreme Court of the United States to reverse the judgment rendered in a suit between the said Abraham Halsey and the said The Inhabitants of the Township of New Providence in the County of Union by the circuit court of the United States for the third circuit and district of New Jersey:

Now, therefore, the condition of this obligation is such that if the above named The Inhabitants of the Township of New Providence in the County of Union shall prosecute their said writ of error to effect, and answer all costs if they shall fail to make good their plea, then this obligation to be void; otherwise, to remain in full force and virtue.

AMOS POTTER. [L. S.]
CORNELIUS A. RUNKLE. [L. S.]

Sealed and delivered in the presence of—
JOHN A. SHIELDS,
*U. S. Commissioner, as to Cornelius A. Runkle.*

This 16th day of May, 1882.

L. HOWELL JONES,
*U. S. Com., Dist. of N. J., as to Amos Potter.*

3 UNITED STATES OF AMERICA, *Southern District of New York,* } *ss:*

Cornelius A. Runkle, being duly sworn, depose- and say- that he is worth the sum of five thousand dollars over and above all his just debts and liabilities.

CORNELIUS A. RUNKLE.

Sworn to before me, this 16th day of May, 1882.

[U. S. Com. Seal.]

JOHN A. SHIELDS.
*U. S. Commissioner S. D. of N. Y.*

I approve the above bond and the sufficiency of the sureties thereto.

JNO. T. NIXON,
*District Judge.*

UNITED STATES OF AMERICA, }
*District of New Jersey.* } *ss:*

Amos Potter, being duly sworn, doth depose and say that he is worth the sum of one thousand dollars over and above all his just debts and liabilities.

4 AMOS POTTER.

Sworn and subscribed before me, this 22nd day of May, 1882.

[U. S. Com. Seal.]

S. HOWELL JONES,
*United States Com. District of New Jersey.*

(Endorsed:) U. S. Supreme Court. Writ of error to circuit court, district of N. J. The Inhabitants of the Township of New Providence in the county of Union *vs.* Abraham Halsey. McColler & Keen, att'ys. Filed June 7, 1882. S. D. Oliphant, clerk.

5 UNITED STATES OF AMERICA, *ss:*

The President of the United States to the honorable the judges of the circuit court of the United States for the district of New Jersey, Greeting:

[The Seal of the U. S. Circuit Court, District of New Jersey.]

Because that in the record and process, and also in the rendering of judgment in a suit before you, or some of you, between Abraham Halsey, of California, and the Inhabitants of the Township of New Providence, in the county of Union and State of New Jersey, of a plea of debt, manifest error hath intervened, to the great damage of the said The Inhabitants of the Township of New Providence, in the county of Union, plaintiffs in error, as by their complaint appears:

And as it is just and proper that the error, if any there be, should be corrected in due manner, and that full and speedy justice should be done to the parties aforesaid in this behalf, you are hereby commanded that if judgement thereof be given, then, under you seal, you do, distinctly and openly, send the record and process in 6 the suit aforesaid, with all things concerning them, and this writ, so that you have the same before the Chief Justice and the Associate Justices of the Supreme Court of the United States, on the second Monday of October next, at Washington, being the present seat of the National Government, that the record and process aforesaid being inspected they may cause to be done thereupon what of right ought to be done.

Witness the Honorable Morrison R. Waite, Chief Justice of the said Supreme Court, this 7th day of June, in the year of our Lord one thousand eight hundred and eighty-two.

S. D. OLIPHANT,
*Clerk of the Circuit Court of the United States for the District of New Jersey.*

6½ [Endorsed:] United States Supreme Court. 3-264. The Inhabitants of the Township of New Providence, in the county of Union, *v.* Abraham Halsey. On writ of error to U. S. circuit c't, district of N. J. R't'ble Oct. T., 1882. McCarter & Keen, att'ys, pl't'ffs in error. Allowed June 7, '82. Jno. T. Nixon, J. Filed June 7, 1882. S. D. Oliphant, clerk.

7 UNITED STATES OF AMERICA, *ss:*

To Abraham Halsey, Greeting:

You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington on the second Monday of October next, pursuant to a writ of error filed in the office of the clerk of the circuit court of the United States for the third circuit and district of New Jersey, wherein The Inhabitants of the Township of New Providence, in the county of Union, are plaintiffs in error and you are defendant in error, to show cause, if any there be, why the judgment in the said writ of error mentioned should not be corrected, & speedy justice should not be done to the parties in that behalf.

Witness the honorable John T. Nixon, one of the judges of the circuit court of the United States for the district of New Jersey.

Dated June 7th, A. D. 1882.

JNO. T. NIXON,
*District Judge.*

7½ [Endorsement:] U. S. Supreme Court. 3-264. The Inhabitants of the Township of New Providence, in the county of Union, *v.* Abraham Halsey. Writ of error to U. S. circuit c't, district of N. J. Citation. McCarter & Keen, att'ys of pl't'ff in error. Filed June 17, 1882. S. D. Oliphant, clerk. Service of the within citation is hereby acknowledged, June 14, 1882. H. C. Pitney, att'y, Abraham Halsey, def't in error.

8 *Judgment on Verdict. In Debt.*

United States Circuit Court, District of New Jersey.

ABRAHAM HALSEY
*vs.*
THE INHABITANTS OF THE TOWNSHIP OF NEW PROVIDENCE, IN THE COUNTY OF UNION.

HENRY C. PITNEY, *Attorney.*

As yet, of the twenty-fourth day of June, eighteen hundred and seventy-nine.

JOHN T. NIXON, *Judge.*

Witness:
S. D. OLIPHANT, *Clerk.*

9 DISTRICT OF NEW JERSEY, *ss:*

The Inhabitants of the Township of New Providence, in the County of Union and State of New Jersey, a municipal corporation

and body politic of the State of New Jersey, the defendants herein,
were summoned to answer unto Abraham Halsey, a resident and
citizen of the State of California, the plaintiff herein, of a plea that
they render unto him the sum of fifteen thousand dollars which to
him they owe and from him unjustly detain, and thereupon the
said plaintiff, by Henry C. Pitney, his attorney, complains for that
whereas heretofore, to wit, on the fourteenth day of November,
eighteen hundred and sixty-eight, there was filed in the office of the
clerk of the county of Union, in said State of New Jersey, in which
county the said township of New Providence is situate, a certain
paper writing, bearing date the twenty-fourth day of July, eighteen
hundred and sixty-eight, purporting, to be signed by divers tax payers and land owners in said township, the purport and effect of which
paper writing was that the persons signing the same did consent
10 that the commissioners appointed for said township to carry
into effect the purposes and provisions of a certain act of the
Legislature of said State of New Jersey, entitled "An act to authorize
certain towns in the counties of Somerset, Morris, Essex, and Union
to issue bonds and take stock in the Passaic Valley and Peapack
Railroad Company," approved April the ninth, eighteen hundred
and sixty-eight, might, under the provisions of said act, borrow on
the faith and credit of said township, and execute bonds for the sum
of eighty-five thousand dollars (such sum not exceeding ten per
centum of the valuation of the real estate and landed property of
said township ascertained by the assessment rolls thereof for the
year eighteen hundred and sixty-seven), which money should be
invested, in compliance with the provisions of said act, in the stock
of the said railroad company, and that the said commissioners might
exercise full and complete power for said township to carry into
effect the purposes and provisions of said act, to which paper writing was annexed the several affidavits of Jarvis Johnson, John Littell, and Jonathan Bonnell, therein described as, and severally
11 asserting themselves to be, commissioners for said township,
to carry into effect the provisions and purposes of said act of
the Legislature, made before one Joseph C. Noe, alleging himself to
be, and in fact being, one of the justices of the peace of said county,
to the purport and effect that the said several signatures of said tax-payers and land owners to said paper writing were the genuine signatures of the persons purporting to sign the same; and an affidavit
of one John M. Wilcox, therein described as and alleging himself
to be, and in fact being, the assessor of said township of Bernards,
made before said Joseph C. Noe, justice of the peace, as aforesaid, on
the ninth day of November, eighteen hundred and sixty-eight, to the
purport and effect that he was at that time the assessor of said township, and in possession of and discharge of the duties of the office of
such assessor; that he, the said affiant, had read the said paper writing, purporting to be a consent of tax-payers, as aforesaid, and had read
and inspected the names thereto signed, and that he had also carefully
inspected the assessment roll of said township for the year eighteen hundred and sixty-seven, and that he knew and was acquainted with the
tax-payers of said township, and that the persons whose names

12 were so signed to said paper writing constituted a majority of the tax-payers of said township and represented a majority of the real property of such township in value; and, also, that the said persons whose names were signed to said paper writing constituted a majority of the tax-payers of such township appearing upon the assessment roll of such township for the year eighteen hundred and sixty-seven, and that they, the said last-mentioned persons, represented a majority of the landed property of such township appearing on the said assessment roll of said township for the year eighteen hundred and sixty-seven; and afterwards, to wit, on the fourteenth day of November, eighteen hundred and sixty-eight, a paper writing, purporting to be a copy of the first-mentioned paper writing and of the said several affidavits thereto annexed, and certified by the clerk of the said county of Union, under his hand and seal of said county, to be such copy, was duly filed in the office of clerk of said township of New Providence.

First. And whereas the said defendants, on the said 1st day
13 of January, 1869, in the county Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn, as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain bond, bearing date the same day and year last aforesaid, numbered three, which bond, signed and sealed as aforesaid, is shown to the court here, and did thereby, then and there, acknowledge that they, the said defendants, did owe to the bearer of said bond one thousand dollars, which sum they did thereby promise to pay the holder thereof, at the American Exchange National Bank in the city of New York, seven years after the date thereof aforesaid, and also interest thereon, at the rate of seven per cent. per annum, payable semi-annually, on the 1st days of July and January in each year, until the last-aforesaid principal sum should be paid, on presentation of the interest coupons to said bond annexed at the said bank.

14 And it was by said bond then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township, in pursuance of said act entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said bond was afterward, and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "Registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said printed words on the face of the same; and there was then and there annexed and attached to said bond ten

certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the 15 first day of July, 1871, thirty-five dollars for six months' interest on said bond; and by another of which said interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of thirty-five dollars for six months' interest on said bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of thirty-five dollars for six months' interest on said bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of thirty-five dollars for six months' interest on said bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of thirty-five dollars for six months' interest on the said bond; and by another of which said last-mentioned in- 16 terest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of thirty-five dollars for six months' interest on said bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of thirty-five dollars for six months' interest on said bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of thirty-five dollars for six months' interest on said bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, the like sum of thirty-five dollars for six months' interest on said bond; and by another of which said last-mentioned interest coupons it was stated and ex- 17 pressed that the said defendants would pay to the bearer thereof, at the same bank above-mentioned, on the 1st day of January, 1876, the like sum of thirty-five dollars for six months' interest on said bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond, and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st

day of July, 1871, in the city of New York, said interest coupon first in this count above mentioned was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of thirty-five dollars therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid, of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said
city of New York, said interest coupon secondly in this count
18 above mentioned was duly presented at said bank therein
mentioned and payment of said sum of thirty-five dollars
therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

19 And afterwards, to wit, on the 1st day of July, 1873, in
said city of New York, said interest coupon, fifthly in this
count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in the count above mentioned, was duly presented at said bank therein mentioned, and
payment of said sum of thirty-five dollars therein named was
20 duly demanded; but that the same was then and there not
paid, and was and still is refused to be paid, of all which the
defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

21 And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-six, in the said city of New York, the said bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one thousand dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one thousand dollars in said last-mentioned bond mentioned, and also the sum of three hundred and fifty dollars, being the amount of the said ten interest coupons to the said bond in this court mentioned, annexed, in all the sum of thirteen hundred and fifty dollars, parcel of the sum of fifteen thousand dollars above demanded.

22 Second. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn, as directed by the provisions of the said act of the Legislature of New Jersey entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bonds, bearing date the same day and year last aforesaid, numbered six, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here, and did thereby, then and there, acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one thousand dollars, which sum they did thereby promise to pay the holder thereof, at the American Exchange National Bank in the city of New York, eight years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annu-

23 ally on the 1st days of July and January in each year, until the last-aforesaid principal sum should be paid, on presentation of the interest coupons to said last-mentioned bond annexed at the said bank. And it was by said last-mentioned bond then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township, in pursuance of said act entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond twelve

24 certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like

25 sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of thirty-five dollars for six months' interest on the said last-mentioned bond; and by another of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like

sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of thirty-five dollars for six months'
26 interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at same bank above mentioned, on the 1st day of July, 1876, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1877, the like sum of thirty-five dollars
27 for six month's interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bonds and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this court above mentioned, was duly presented at said American Exchange National Bank in the city of New York, and payment of said sum of thirty-five dollars therein mentioned was then and there duly demanded, but that the same was then and there not paid, but was refused to be paid, of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein men-
28 tioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

29 And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly
demanded, but that the same was then and there not paid,
30 and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and
payment of said sum of thirty-five dollars therein named was
31 duly demanded, but that the same was then and there not
paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eleventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said city of New York, said interest coupon, twelfthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, all of which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-
seven, in the said city of New York, the said last mentioned
32 bond was also duly presented at said bank therein mentioned,
and payment of said principal sum of one thousand dollars
therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one thousand dollars, in said last mentioned bond mentioned, and also the sum of four hundred and twenty dollars, being the amount of the twelve interest coupons to the said bond in this count mentioned, annexed, in all, the sum of fourteen hundred and twenty dollars, other parcel of the sum of fifteen thousand dollars above demanded.

Third. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn, as directed by the provisions of the said act of the Legislature of New Jer-
sey, entitled "An act to authorize certain towns in the counties
33 of Somerset, Morris, Essex, and Union to issue bonds and take
stock in the Passaic Valley and Peapack Railway Company,"
approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered seven, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here, and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one thousand dollars, which sum they did thereby promise to pay the holder thereof, at the American Exchange National Bank, in the city of New York, nine years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year, until the last aforesaid principal sum should be paid, on presentation of the interest coupons to said last-mentioned bond annexed at the said bank. And it was by said last-mentioned bond then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of
eighty-five thousand dollars, issued on the faith and credit of
34 said township in pursuance of said act entitled "An act to

authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward, and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond fourteen certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the City of New York, on the first day of July, 1871, thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed
that the said defendants would pay to the bearer thereof,
35 at the same bank above mentioned, on the 1st day
of January, 1872, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it wasstated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of thirty-five dollars for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said
defendants would pay to the bearer thereof, at the same bank
36 above mentioned, on the 1st day of January, 1874, the like
sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank aboue mentioned, on the 1st day of January, 1875, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants

would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, the like sum of thirty-five dollars for six months' interest on said last.mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, 37 the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned, on the 1st day of July, 1876, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the first day of January, 1877, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned, on the 1st day of July, 1877, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 38 1878, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of thirty-five dollars therein mentioned was then and there duly demanded, but that the same was then and there not paid, but was refused to be paid, of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, 39 and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said
40 city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants
41 then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was
42 duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eleventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said city of New York, said interest coupon, twelfthly in this
43 count above mentioned, was duly presented at said bank
therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1877, in said city of New York, said interest coupon, thirteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1878, in said city of New York, said interest coupon, fourteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded, but that the same was then and there not paid,
44 and was and still is refused to be paid; of all which the
defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-eight, in said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one thousand dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one thousand dollars in said last-mentioned bond mentioned, and also the sum of four hundred and ninety dollars, being the amount of the said fourteen interest coupons to the said bond in this count mentioned, annexed, in all the sum of fourteen hundred and ninety dollars, other parcel of the sum of fifteen thousand dollars above demanded.

Fourth. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis John-
45 son, and John Littell, commissioners of said township, duly ap-
pointed and sworn as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway

Company," approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered eight, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here, and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one thousand dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the city of New York, nine years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year, until the last-aforesaid principal sum should be paid on presentation of the interest coupons to said last-mentioned bond annexed at the said
46 bank. And it was, by said last-mentioned bond, then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township, in pursuance of said act entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, and the said last-mentioned bond was afterward and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union, by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office," printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond fourteen certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof at the American
47 Exchange National Bank, in the city of New York, on the first day of July, 1871, thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above

48 mentioned, on the 1st day of July, 1873, the like sum of thirty-five dollars for six months' interest on the said last mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of thirty-five dollars for six month's interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of thirty-five dollars for six months' interest on said last mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 49 1st day of July, 1875, the like sum of thirty-five dollars for six months' interest on said last mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1876, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1877, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1877, 50 the like sum of thirty-five dollars for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1878, the like sum of thirty-five dollars for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned, and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st

day of July, 1871, in the city of New York, said interest coupons, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of thirty-five dollars therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid, of all which said
51 defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars. therein named
52 was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, wasduly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded; but that the same was then and there not paid; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon seventhly in this count
53 above mentioned was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, the payment of said sum of thirty-five dollars, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all of which the defendants then and there had due notice.

54 And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this above count mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eleventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said city of New York, said interest coupon, twelfthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which
55 the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1877, in said city of New York, said interest coupon, thirteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1878, in said city of New York, said interest coupon, fourteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of thirty-five dollars, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-eight, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and

56 payment of said principal sum of one thousand dollars, therein
named, was duly demanded; but that the same was then and
there not paid, and was and still is refused to be paid, of all of which
the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one thousand dollars, in said last-mentioned bond mentioned, and also the sum of four hundred and ninety dollars, being the amount of the said fourteen interest coupons to the said bond in this count mentioned, annexed, in all the sum of fourteen hundred and ninety dollars, other parcel of the sum of fifteen thousand dollars above demanded.

Fifth. And whereas, also, the said defendants, on the said 1st day of
January, 1869, in the county of Union aforesaid, by and under the
hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and
John Littell, commissioners of said township, duly appointed and
sworn as directed by the provisions of the said act of the legislature
of New Jersey, entitled, "An act to authorize certain towns in
57 the counties of Somerset, Morris, Essex, and Union to issue
bonds and take stock in the Passaic Valley and Peapack
Railway Company," approved April 9th, 1868, did then and there
make their certain other bonds, bearing date the same day and year
last aforesaid, numbered forty-six, which last mentioned bond, signed
and sealed as aforesaid, is shown to the court here; and did thereby
then and there acknowledge that they, the said defendants, did owe
to the bearer of said last mentioned bond five hundred dollars,
which sum they did thereby promise to pay the holder thereof, at
the American Exchange National Bank, in the city of New York,
seven years after the date thereof aforesaid, and also interest thereon
at the rate of seven per cent. per annum, payable semi-annually, on
the 1st days of July and January in each year, until the last aforesaid
principal sum should be paid, on presentation of the interest
coupons to said last-mentioned bond annexed at the said bank.
And it was, by said last mentioned bond, then and there declared
that the same was one of a series of like tenor, amounting in
58 the whole to the sum of eighty-five thousand dollars, issued
on the faith and credit of said township in pursuance of said
act, entitled "An act to authorize certain towns in the counties of
Somerset, Morris, Essex, and Union to issue bonds and take stock in
the Passaic Valley and Peapack Railway Company," approved
April 9th, 1868, and the said last mentioned bond was afterwards,
and before the same was issued, to wit, on the said first day of January,
eighteen hundred and sixty-nine, duly registered in the office
of the clerk of the said county of Union by Henry R. Cannon, then
clerk of said county, and the words "registered in the county clerk's
office "printed across the face of the same, and the name "Henry R.
Cannon, county clerk," written by said clerk, under said last mentioned
printed words on the face of the same; and there was then
and there annexed and attached to said last mentioned bond
ten certain interest coupons, by one of which it was stated and

expressed that said defendants would pay the bearer thereof, at
the American Exchange National Bank, in the city of New York,
on the first day of July, 1871, seventeen dollars and fifty cents
for six months' interest on said last mentioned bond,
59 and by another, of which said last mentioned interest coupons
it was stated and expressed that the said defendants would
pay to the bearer thereof, at the same bank above mentioned, on the
1st day of January, 1872, the like sum of seventeen dollars and
fifty cents for six months' interest on said last-mentioned bond; and
by another, of which said last-mentioned interest coupons it was
stated and expressed that the said defendants would pay to the
bearer thereof, as the same bank above mentioned, on the 1st day of
July, 1872, the like sum of seventeen dollars and fifty cents for six
months' interest on said last-mentioned bond; and by another, of
which said last-mentioned interest coupons it was stated and expressed
that the said defendants would pay to the bearer thereof, at
the same bank above mentioned, on the 1st day of January, 1873,
the like sum of seventeen dollars and fifty cents for six months' interest
on said last-mentioned bond; and by another, of which said
last-mentioned interest coupons it was stated and expressed that the
said defendants would pay to the bearer thereof, at the same bank
above mentioned, on the 1st day of July, 1873, the like sum of
60 seventeen dollars and fifty cents for six months' interest on the
said last-mentioned bond; and by another, of which said last-mentioned
interest coupons it was stated and expressed that the said
defendants would pay to the bearer thereof, at the same bank above
mentioned, on the 1st day of January, 1874, the like sum of seventeen
dollars and fifty cents for six months' interest on said last-mentioned
bond; and by another, of which said last-mentioned interest
coupons it was stated and expressed that the said defendants would
pay to the bearer thereof, at the same bank above mentioned, on
the 1st day of July, 1874, the like sum of seventeen dollars and
fifty cents for six months' interest on said last-mentioned bond; and
by another, of which said last-mentioned interest coupons it was
stated and expressed that the said defendants would pay to the
bearer thereof, at the same bank above mentioned, on the 1st day of
January, 1875, the like sum of seventeen dollars and fifty cents for
six months' interest on said last-mentioned bond; and by another, of
which said last-mentioned interest coupons it was stated and expressed
that the said defendants would pay to the bearer thereof, at the
same bank above mentioned, on the 1st day of July, 1875, the
61 like sum of seventeen dollars and fifty cents for six months'
interest on said last-mentioned bond; and by another, of
which said last-mentioned interest coupons it was stated and expressed
that the said defendants would pay to the bearer thereof, at
the same bank above mentioned, on the 1st day of January, 1876,
the like sum of seventeen dollars and fifty cents for six months'
interest on said last-mentioned bond.

And the plaintiff in fact says, that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond, and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says, that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of seventeen dollars and fifty cents therein mentioned, was then and there duly demanded, but that the 62 same was then and there not paid, but was refused to be paid, of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in the count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in 63 said city of New York, said interest coupon, fourthly in this count abave mentioned, was duly presented at said bank therein mentioned, the payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents 64 therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendant then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of
New York, said interest coupon, ninthly in this count above
65 mentioned, was duly presented at said bank therein men-
tioned, and payment of said sum of seventeen dollars and
fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all whch the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-six, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of five hundred dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all of which the defendants then and there had notice.

66 By means whereof an action hath accrued to the plaintiff
to have and recover from the defendants the said principal
sum of five hundred dollars in said last-mentioned bond mentioned, and also the sum of one hundred & twenty-five dollars, being the amount of the said ten interest coupons to the said bond in this count mentioned annexed, in all the sum of six hundred & seventy-five dollars, other parcel of the sum of fifteen thousand dollars above demanded.

Sixth. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn as directed by the provisions of the said act of the Legislature of New Jersey entitled "An act to authorize certain towns in counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond bearing date the same day and year last aforesaid, numbered
forty-eight, which last-mentioned bond, signed and sealed as
67 aforesaid is shown to the court here, and did thereby then and

there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond five hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the city of New York, eight years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the 1st days of July and January in each year, until the last aforesaid principal sum shall be paid, on presentation of the interest coupons to said last-mentioned bond annexed at the said bank; and it was, by said last-mentioned bond, then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township, in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward, and before the same was issued, 68 to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last mentioned bond twelve certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, seventeen dollars and fifty cents for six month's interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of seventeen dollars and fifty cents for six month's interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said 69 defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1873, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the the first day of July, 1873, the like sum of seventeen dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another, of which said last-mentioned interest coupons it

was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1874, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by
70 another. of which said last-mentioned interest coupons it was
stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of July, 1874, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1875, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of July, 1875, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1876, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned
71 interest coupons it was stated and expressed that the said
defendants would pay to the bearer thereof at the same bank above mentioned, on the 1st day of July, 1876, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons, it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above-mentioned, on the 1st day of January, 1877, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became for valuable consideration by him paid by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon first in this count above-mentioned was duly presented at
72 said American Exchange National Bank, in the city of New
York, and payment of said sum of seventeen dollars and fifty cents therein mentioned, was then and there duly demanded, but that the same was then and there not paid, but was refused to be paid, of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above-mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above-mentioned, was duly presented at said bank therein mentioned and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

73 And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded, but that the same was then and there not paid; and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said
city of New York, said interest coupon, sixthly in this count above
mentioned, was duly presented at said bank therein mentioned, and
payment of said sum of seventeen dollars and fifty cents,
74 therein named, was duly demanded, but that the same was
then and there not paid, and was and still is refused to be
paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in
75 said city of New York, said interest coupon, ninthly in this
count above mentioned, was duly presented at said bank
therein mentioned, and payment of said sum of seventeen dollars
and fifty cents, therein named, was duly demanded, but that the

same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mention, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eleventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which
76 the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said city of New York, said interest coupon, twelfthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-seven, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of five hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants, the said principal sum of five hundred dollars, in said last-mentioned bond mentioned, and also the sum of two hundred and ten dollars, being the amount
77 of the said twelve interest coupons to the said bond in this
count mentioned, annexed; in all the sum of seven hundred and ten dollars, other parcel of the sum of fifteen thousand dollars above demanded.

Seventh. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Johathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond bearing date the same day and year last aforesaid, numbered forty-nine, which last mentioned bond, signed and sealed as aforesaid, is shown to the court here; and did

thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond five
78 hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the city of New York, eight years after the date thereof aforesaid, and also interest thereon, at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year until the last aforesaid principal sum should be paid, on presensation of the interest coupons to said last mentioned bond annexed at the said bank. And it was by said last mentioned bond then and there declared that the same was one of a series of like tenor, amounting in the whole sum of eighty-five thousand dollars, issued on the faith and credit of said township, in pursuance of said act entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, and the said last mentioned bond was afterward, and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then
79 clerk of said county, and the words "Registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond twelve certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank in the city of New York, on the first day of July, 1871, seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1872, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of July, 1872, the like sum of seventeen dollars
80 and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1873, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of July, 1873, the like sum of seventeen dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank

above mentioned on the 1st day of January, 1874, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of July, 1874, the like sum of
81 seventeen dollars and fifty cents for six months' interest on
said last mentioned bond, and by another of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond, and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond, and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of seventeen dollars and fifty cents for six months' interest on said last mentioned bond, and by another of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer
82 thereof, at the same bank above mentioned, on the 1st day of
July, 1876, the like sum of seventeen dollars and fifty cents for six months' interest on said last mentioned bond, and by another of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1877, the like sum of seventeen dollars and fifty cents for six months' interest on said last mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last mentioned bond, and bearer thereof, and of the said last mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupons, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of seventeen dollars and fifty cents therein
83 mentioned, was then and there duly demanded, but that the
same was then and there not paid, but was refused to be paid, of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

84 And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and the had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendant then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and 85 there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded; but that the same was then and there not paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eightly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded; but that the same was then and there not paid, and was, and still is, refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in this count 86 above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day cf January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eleventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and
87 there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said city of New York, said interest coupon, twelfthly in this count above mentioned was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And on the first day of January, eighteen hundred and seventy-seven, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of five hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal
88 sum of five hundred dollars in said last-mentioned bond mentioned, and also the sum of two hundred and ten dollars, being the amount of the said twelve interest coupons to the said bond in this count mentioned, annexed, in all the sum of seven hundred and ten dollars, other parcel of the sum of fifteen thousand dollars above demanded.

Eighth. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn as directed by the provisions of the said act of the legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Pasaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond bearing date the same day and year last aforesaid, numbered fifty, which last-mentioned bond signed and
89 sealed as aforesaid, is shown to the court here, and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond five hundred dollars, which sum they did thereby promise to pay the

holder thereof, at the American Exchange National Bank, in the
city of New York, nine years after the date thereof aforesaid, and
also interest thereon at the rate of seven per cent. per annum, payable
semi-annually on the 1st days of July and January in each
year, until the last aforesaid principal sum should be paid, on presentation
of the interest coupons to said last-mentioned bond annexed
to said bank. And it was by said last-mentioned bond then
and there declared that the same was one of a series of like tenor,
amounting in the whole to the sum of eighty-five thousand dollars,
issued on the faith and credit of said township in pursuance of said
act, entitled "An act to authorize certain towns in the counties of
Somerset, Morris, Essex, and Union to issue bonds and take stock
in the Passaic Valley and Peapack Railway Company," approved
90 April 9th, 1868; and the said last-mentioned bond
was afterwards, and before the same was issued, to wit, on the
said first day of January, eighteen hundred and sixty-nine, duly
registered in the office of the clerk of the said county of Union by
Henry R. Cannon, then clerk of said county, and the words "Registered
in the county clerk's office" printed across the face of the
same, and the name "Henry R. Cannon, county clerk," written by
said clerk under said last-mentioned printed words on the face of
the same; and there was then and there annexed and attached to
said last-mentioned bond fourteen certain interest coupons, by one
of which it was stated and expressed that said defendants would pay
the bearer thereof, at the American Exchange National Bank, in
the city of New York, on the first day of July, 1871, seventeen dollars
and fifty cents for six months' interest on said last-mentioned bond;
and by another of which said last-mentioned interest coupons it was
stated and expressed that the said defendants would pay to the bearer
thereof, at the same bank above mentioned, on the 1st day of January,
1872, the said sum of seventeen dollars and fifty cents for six
months' interest on said last-mentioned bond; and by another
91 of which said last-mentioned interest coupons it was stated
and expressed that the said defendants would pay to the
bearer thereof, at the same bank above mentioned, on the 1st day
of July, 1872, the like sum of seventeen dollars and fifty cents for six
months' interest on said last-mentioned bond; and by another, of
which said last-mentioned interest coupons it was stated and expressed
that the said defendants would pay to the bearer thereof, at
the same bank above mentioned, on the 1st day of January, 1873,
the like sum of seventeen dollars and fifty cents for six months' interest
on said last-mentioned bond; and by another, of which said last-mentioned
interest coupons it was stated and expressed that the said
defendants would pay to the bearer thereof, at the same bank above
mentioned, on the 1st day of July, 1873, the like sum of seventeen
dollars and fifty cents for six months' interest on the said last-mentioned
bond; and by another, of which said last-mentioned interest
coupons it was stated and expressed that the said defendants would
pay to the bearer thereof, at the same bank above-mentioned,
92 on the 1st day of January, 1874, the like sum of seventeen

dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above-mentioned, on the 1st day of July, 1874, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was
93 stated and expressed that the said defendants would pay to
the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1876, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1877, the like sum of seventeen dollars and fifty cents for six months interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1877, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bonds
94 and by another of which said last-mentioned interest coupon;
it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1878, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this court above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of seventeen dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was 95 then and there not paid, but was refused to be paid, of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein men- 96 tioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said 97 city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in the count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein
named, was duly demanded; but that the same was then and
98 there not paid, and was and still is refused to be paid, of all
which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eveventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said
city of New, said interest coupon, twelfthly in this count
99 above mentioned, was duly presented at said bank therein
mentioned, and payment of said sum of seventeen dollars
and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1877, in said city of New York, said interest coupon, thirteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1878, in said city of New York, said interest coupon, fourteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents, therein named, was duly demanded; but that the same was then and there
not paid, and was and still is refused to be paid, of all which
100 the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-eight, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of five hundred dollars, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of five hundred dollars, in said last mentioned bond mentioned, and also the sum of two hundred and forty-five dollars, being the amount of the said fourteen interest coupons to the said bond in the count mentioned annexed, in all, the sum of seven hundred and forty-five dollars, other parcel of the sum of fifteen thousand dollars above demanded.

Ninth. And whereas, also, the said defendants, on the 1st day of January, 1869, in the county of Union aforesaid, by and under 101 the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered fifty-one, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here; and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond five hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the city of New York, nine years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year until the last aforesaid principal sum should be paid on presentation of 102 the interest coupons to said last-mentioned bond annexed, at the said bank. And it was, by said last-mentioned bond, then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said towhship in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward, and before the same was issued, to wit, on the said first day of January, eighteen nundred and sixty-nine, duly registered in the office of the clerk of the said county of Union, by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office," printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond, fourteen certain interest coupons, by one of which it was 103 stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, seventeen dollars and fifty cents for six months' interest on said last mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof,

at the same bank above mentioned, on the 1st day of January, 1872, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest
104 coupons it was stated and expressed that the said defendants
would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of seventeen dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which
105 said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of July, 1875, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1876, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bonds; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of July, 1876, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond, and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1877, the like sum of seventeen dollars and fifty cents for six
106 months' interest on said last-mentioned bond; and by another

of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of July, 1877, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1878, the like sum of seventeen dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says: That before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says: That heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest
107 coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank in the city of New York, and payment of said sum of seventeen dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

108 And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupons, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and
payment of said sum of seventeen dollars and fifty cents
109 therein named was duly demanded; but that the same was
then and there not paid, and was and is still is refused to be
paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said
110 city of New York, said interest coupon, ninthly in this count
above mentioned, was duly presented at said bank therein
mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eleventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein
named was duly demanded; but that the same was then and
111 there not paid, and was and still is refused to be paid; of all
which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said city of New York, said interest coupon, twelfthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1877, in said city of New York, said interest coupon, thirteenthly in this count above mentioned, was duly presented at said bonk therein mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1878, in said city of New York, said interest coupon, fourteenthly in this count above mentioned, was duly presented at said bank therein
112 mentioned, and payment of said sum of seventeen dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-eight, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of five hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of five hundred dollars, in said last-mentioned bond mentioned, and also the sum of two hundred and forty-five dollars, being the amount of the said fourteen interest coupons to the said bond in this count mentioned, annexed, in all the sum of seven hundred and forty-five dollars—other parcel of the sum of fifteen thousand dollars above demanded.

113 Tenth. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn, as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered one hundred and one, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here; and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the city of New York, six years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually
114 on the 1st days of July and January in each year, until the last aforesaid principal sum should be paid, on presentation of the interest coupons to said last-mentioned bond annexed, at the

said bank; and it was, by said last-mentioned bond, then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward, and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "Registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-115 mentioned bond, eight certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, three dollars and fifty cents, for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bonds; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said 116 last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearers thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' 117 interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the first day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded, but that the same was then and there not paid, but was refused to be paid; of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein 118 named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned was duly presented, at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above 119 mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; all of which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day July, 1874, in said city of New York, said interest coupon, seventhly in the count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; all of which the defendants then and there had due notice.

120 And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and were and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-five, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars in said last-mentioned bond mentioned, and also the sum of twenty-eight dollars, being the amount of the said eight
interest coupons to the said bond in this count mentioned,
121 annexed, in all the sum of one hundred and twenty-eight
dollars—other parcel of the sum of fifteen thousand dollars above demanded.

Eleventh. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered one hundred and two, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here, and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dol-
lars, which sum they did thereby promise to pay the holder
122 thereof, at the American Exchange National Bank in the city
of New York, six years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each

year, until the last aforesaid principal sum should be paid, on presentation of the interest coupons to said last-mentioned bond annexed at the said bank. And it was by said last-mentioned bond then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township in pursuance of said act entitled "An act to authorize certain town in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, and the said last-mentioned bond was afterward, and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk 123 under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond eight certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, three dollars and fifty cents for six months' interest on said last mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendant, would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bonds; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank 124 above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereot, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on

said last mentioned bonds; and by another of which said last-men-
tioned interest coupons it was stated and expressed that the
125 said defendants would pay to the bearer thereof, at the same
bank above mentioned, on the 1st day of January, 1875, the
like sum of three dollars and fifty cents for six months' interest on
said last-mentioned bond.

And the plaintiff-in-fact says, that before the 1st day of July, 1871, he became for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond, and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says, that heretofore, to wit, on the first day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid; of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872,
126 in said city of New York, said interest coupon, secondly in
this count above mentioned, was duly presented at said bank
therein mentioned, and payment of said sum of three dollars and
fifty cents therein named was duly demanded; but that the same
was then and there not paid, and was and still is refused to be
paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the first day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said
city of New York, said interest coupon, fourthly in this count above
mentioned, was duly presented at said bank therein mentioned, and
payment of said sum of three dollars and fifty cents therein named
was duly demanded; but that the same was then and there
127 not paid, and was and still is refused to be paid; of all which
the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above-mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city, of New York, said interest coupon, seventhly in this count 128 above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents, therein named, was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-five, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the de-129 fendants then and there had notice.

By means whereof and action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars in said last-mentioned bond mentioned, and also the sum of twenty-eight dollars, being the amount of the said eight interest coupons to the said bond in this count mentioned annexed, in all the sum of one hundred and twenty-eight dollars, other parcel of the sum of fifteen thousand dollars above demanded.

Twelfth. And whereas also the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township duly appointed and sworn, as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Com-130 pany," approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered one hundred and three, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here, and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the city of New York, six years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the 1st days of July and January in each year until

the last-aforesaid principal sum should be paid, on presentation of the interest coupons to said last mentioned bond annexed at the said bank, and it was by said last-mentioned bond then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township, in pursuance of said act entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex,
131 and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond eight certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, three dollars and fifty cents for six months' interest on said last mentioned bond; and by another of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer
132 thereof, at the same bank above mentioned, on the first day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above-mentioned, on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to
133 the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six

months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond, and bearer thereof and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

134 And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded, but that the same was then and there not paid, but was refused to be paid, of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was, and still is, refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city
of New York, said interest coupon, thirdly in this count above men-
tioned, was duly presented at said bank therein mentioned, and
135 payment of said sum of three dollars and fifty cents therein
named was duly demanded, but that the same was then and
there not paid, and was, and still is, refused to be paid; of all which
the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was, and still is, refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was, and still is, refused, to be paid; of all which the defendants then and there had due notice.

136 And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this

count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there 137 not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-five, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars in said last-mentioned bond mentioned, and also the sum of twenty-eight dollars, being the amount of the said eight interest coupons to the said bond in this count mentioned annexed, in all the sum of one hundred a- twenty-eight dollars, other parcel of the sum of fifteen thousand dollars above demanded.

138 Thirteenth. And whereas also the defendants on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn, as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley an- Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered one hundred and four, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here, and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the city of New York, six years after the date thereof aforesaid,

and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year until the last aforesaid principal sum should be paid on presentation of the interest coupons to said last-mentioned bond
139 annexed at the said bank; and it was by said last-mentioned
bond then and there declared that the same was one of a series of a like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township, in pursuance of said act entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond eight certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof at the American Exchange National Bank, in the city of New
York, on the first day of July, 1871, three dollars and fifty
140 cents for six months' interest on said last-mentioned bond;
and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bonds; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above-mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above-mentioned, on the 1st
day of July, 1873, the like sum of three dollars and fifty
141 cents for six months' interest on the said last-mentioned
bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above-mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer

thereof, at the same bank above-mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above-mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of 142 said last-mentioned bond and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid; of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in 143 said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

144 And afterwards, to wit, on the 1st day of January, 1874,

in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents, therein named, was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there
145 not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-five, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants, the said principal sum of one hundred dollars, in said last-mentioned bond mentioned, and also the sum of twenty-eight dollars, being the amount of the said eight interest coupons to the said bond in this count mentioned, annexed, in all the sum of one hundred and twenty-eight dollars—other parcel of the sum of fifteen thousand dollars above demanded.

Fourteenth. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell,
146 Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there made their certain other bond, bearing date the same day and year last aforesaid, numbered one hundred and five, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here; and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank,

in the city of New York, six years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the 1st days of July and January in each year, until the last aforesaid principal sum should be paid on presentation of the interest coupons to said last-mentioned bond annexed, at the said bank. And it was, by said last-mentioned
147 bond, then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township, in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, and the said last-mentioned bond was afterward, and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union, by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond eight certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank in the city of New York, on the first day of July, 1871, three dollars and fifty cents for six months' interest on said last-men-
148 tioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above-mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-men-
149 tioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest cou-

pons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff-in-fact says, that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof, and of the said 150 last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid; all of which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above 151 mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

152 And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice. 153

And on the first day of January, eighteen hundred and seventy-five, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars in said last-mentioned bond mentioned, and also the sum of twenty-eight dollars, being the amount of the said eight interest coupons to the said bond in this count mentioned, annexed, in all the sum of one hundred and twenty-eight dollars, — other parcel of the sum of fifteen thousand dollars above demanded.

Fifteenth. And whereas also the said defendants on the said 1st day of January, 1869, in the county of Union aforesaid, by 154 and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn as directed by the provisions of the said act of the Lagislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered one hundred and six, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here, and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay

the holder thereof, at the American Exchange National Bank, in the city of New York, six years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year until the last aforesaid principal sum should be paid, on presentation of the interest coupons to said last-mentioned bond
155 annexed at the said bank; and it was, by said last-mentioned bond, then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union, by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond eight certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank,
156 in the city of New York, on the first day of July, 1871, three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that
157 the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of

three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of
158 July, 1871, he became for valuable consideration by him
paid, by purchase of the same in public market, and then
and there was holder of said last-mentioned bond, and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded, but that the same was then and there not paid; but was refused to be paid; of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there
not paid, and was and still is refused to be paid; of all of
159 which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly int his count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city
of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and pay-
ment of said sum of three dollars and fifty cents therein
160 named was duly demanded, but that the same was then and

there not paid, and was and still is, refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count 161 above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-five, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars in said last-mentioned bond mentioned; and also the sum of twenty-eight dollars, being the amount of the said eight interest coupons to the said bond in this count mentioned, annexed, in all the sum of one hundred and twenty-eight dollars—other 162 parcel of the sum of fifteen thousand dollars above demanded.

Sixteenth. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township duly appointed and sworn as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bonds, bearing date the same day and year last aforesaid, numbered one hundred and seven, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here, and did

thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank in the city of New
163 York, six years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the 1st days of July and January in each year, until the last-aforesaid principal sum should be paid, on presentation of the interest coupons to said last-mentioned bond annexed at the said bank; and it was by said last-mentioned bond then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterwards and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and
164 the name, "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same, and there was then and there annexed and attached to said last-mentioned bond eight certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bonds; and by another of which said last-
165 mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would

pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months'
interest on said last-mentioned bond; and by another of
166 which said last-mentioned interest coupons it was stated and
expressed that the said defendants would pay to the bearer
thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last mentioned bond and bearer thereof and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded, but that the same was then and there not paid, but was refused to be paid; of all which
said defendants then and there had notice.

167 And afterwards, to wit, on the 1st day of January, 1872,
in said city of New York, said interest coupons, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and
payment of said sum of three dollars and fifty cents therein
168 named was duly demanded, but that the same was then and
there not paid, and was and still is refused to be paid; of all
which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

169 And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which defendants then and there had due notice,

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupons, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-five, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice. 170

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars in said last-mentioned bond mentioned, and also the sum of twenty-eight dollars, being the amount of the said eight interest coupons to the said bond in this count mentioned annexed, in all the sum of one hundred and twenty-eight dollars, — other parcel of the sum of fifteen thousand dollars above demanded.

Seventeenth. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township duly appointed and sworn, as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make 171 their certain other bond, bearing date the same day and year last aforesaid, numbered one hundred and eight, which last-

mentioned bond, signed and sealed as aforesaid, is shown to the court here, and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the city of New York, seven years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the 1st days of July and January in each year, until the last-aforesaid principal sum should be paid on presentation of the interest coupons to said last-mentioned bond annexed at the said bank. And it was by said last-mentioned bond then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterwards and before the same
172 was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk" written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond ten certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the 1st day of July, 1871, three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned,
173 on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said

defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of
174 July, 1874, the like sum of three dollars and fifty cents for six
months' interest on said last mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, the like sum of three dollars *dollars* and fifty cents for six months' interest on said last mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became for valuable consideration by him paid, by purchase of the same in public market, and then and there was
175 holder of said last-mentioned bond and bearer thereof, and
of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says, that heretofore, to wit, on the first day of July, 1871, in the city of New York, said interest coupon, first in this account above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid; of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said
176 city of New York, said interest coupon, thirdly in this count
above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the
177 defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein
178 named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-six, in the said city of New York, the said last-mentioned bond was

also duly presented at said bank therein mentioned, and pay-
179 ment of said principal sum of one hundred dollars therein
named was duly demanded; but that the same was then and
there not paid, and was and still is refused to be paid; of all of
which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars in said last-mentioned bond mentioned, and also the sum of thirty-five dollars, being the amount of the said ten interest coupons to the said bond in this count mentioned, annexed, in all the sum of thirteen hundred and fifty dollars, other parcel of the sum of fifteen thousand dollars above demanded.

Eighteenth. And whereas, also, the said defendants, on the said
1st day of January, 1869, in the county of Union aforesaid, by and
under the hands and seals of the said Jonathan Bonnell, Jarvis
Johnson, and John Littell, commissioners of said township, duly
appointed and sworn, as directed by the provisions of the said act of
the Legislature of New Jersey entitled "An act to authorize certain
towns in the counties of Somerset, Morris, Essex, and Union to issue
bonds and take stock in the Passaic Valley and Peapack Rail-
180 way Company," approved April 9th, 1868, did then and there
make their certain other bonds, bearing date the same day and
year last aforesaid, numbered one hundred and nine, which last-men-
tioned bond, signed and sealed as aforesaid, is shown to the court here,
and did thereby, then and there, acknowledge that they, the said de-
fendants, did owe to the bearer of said last-mentioned bond one hun-
dred dollars, which sum they did thereby promise to pay the holder
thereof, at the American Exchange National Bank in the city of New
York, seven years after the date thereof aforesaid, and also interest
thereon at the rate of seven per cent. per annum, payable semi-annu-
ally, on the 1st days of July and January in each year, until the
last-aforesaid principal sum should be paid, on presentation of the
interest coupons to said last-mentioned bond annexed at the said
bank. And it was by said last-mentioned bond then and there de-
clared that the same was one of a series of like tenor, amounting in
the whole to the sum of eighty-five thousand dollars, issued on the
faith and credit of said township, in pursuance of said act entitled
"An act to authorize certain towns in the counties of Somerset, Morris,
Essex, and Union to issue bonds and take stock in the Pas-
181 saic Valley and Peapack Railway Company," approved April
9th, 1868; and the said last-mentioned bond was afterward and
before the same was issued, to wit, on the said first day of January,
eighteen hundred and sixty-nine, duly registered in the office of the
clerk of the said county of Union by Henry R. Cannon, then clerk
of said county, and the words "registered in the county clerk's
office" printed across the face of the same, and the name "Henry R.
Cannon, county clerk," written by said clerk under said last-mentioned
printed words on the face of the same; and there was then and there
annexed and attached to said last-mentioned bond ten certain in-
terest coupons, by one of which it was stated and expressed that said

defendants would pay the bearer thereof at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, three dollars and fifty-cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned
182 bond; and by another of which said last-mentioned interest
coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months'
183 interest on said last-mentioned bond; and by another of which
said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at same bank above mentioned, on the 1st day of July, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of three dollars and
184 fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bonds and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid; of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, 185 and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, 186 and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, 187 in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

188 And on the 1st day of January, eighteen hundred and seventy-six, in the said city of New York, the said last mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars, in said last mentioned bond mentioned, and also the sum of thirty-five dollars, being the amount of the said ten interest coupons to the said bond in this count mentioned, annexed, in all the sum of one hundred and thirty-five dollars—other parcel of the sum of fifteen thousand dollars above demanded.

Nineteenth. And whereas also the said defendants on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis 189 Johnson, and John Littell, commissioners of said township, duly appointed and sworn, as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered one hundred and ten, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here, and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof, at the American Exchange National Bank, in the

city of New York, seven years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year, until the last aforesaid principal sum should be paid, on presentation of the interest coupons to said last-mentioned bond
190 annexed at the said bank; and it was by said last-mentioned bond then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township in pursuance of said act entitled, "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward, and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond ten certain interest coupons, by one of which it was stated and expressed that said defendants would
191 pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the 1st day of July, 1871, three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned
192 interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and

expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest
193 coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said
194 American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid; of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

195 And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and

there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there
196 not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said
197 city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-six, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

198 By means whereof an action hath accrued to the plaintiff
to have and recover from the defendants the said principal
sum of one hundred dollars in said last-mentioned bond mentioned,
and also the sum of thirty-five dollars, being the amount of the said
ten interest coupons to the said bond in this count mentioned, annexed,
in all the sum of one hundred and thirty-five dollars —
other parcels of the sum of fifteen thousand dollars above demanded.

Twentieth. And whereas, also, the said defendants, on the said 1st
day of January, 1869, in the county of Union aforesaid, by and under
the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and
John Littell, commissioners of said township duly appointed and
sworn, as directed by the provisions of the said act of the Legislature
of New Jersey, entitled "An act to authorize certain towns in the
counties of Somerset, Morris, Essex, and Union to issue bonds and
take stock in the Passaic Valley and Peapack Railway Company,"
approved April 9th, 1868, did then and there make their certain
other bond, bearing date the same day and year last aforesaid,
199 numbered one hundred and eleven, which last-mentioned
bond, signed and sealed as aforesaid, is shown to the court
here, and did thereby then and there acknowledge that they, the
said defendants, did owe to the bearer of said last-mentioned bond
one hundred dollars, which sum they did thereby promise to pay
the holder thereof at the American Exchange National Bank, in
the city of New York, seven years after the date thereof aforesaid,
and also interest thereon at the rate of seven per cent. per annum,
payable semi-annually on the 1st days of July and January in each
year, until the last-aforesaid principal sum should be paid on presentation
of the interest coupons to said last-mentioned bond annexed
at the said bank. And it was, by said last-mentioned bond,
then and there declared that the same was one of a series of like
tenor, amounting in the whole to the sum of eighty-five thousand
dollars, issued on the faith and credit of said township, in pursuance
of said act entitled "An act to authorize certain towns in the counties
of Somerset, Morris, Essex, and Union to issue bonds and take
stock in the Passaic Valley and Peapack Railway Company," approved
April 9th, 1868, and the said last-mentioned bond
200 was afterward and before the same was issued, to wit, on the
said first day of January, eighteen hundred and sixty-nine,
duly registered in the office of the clerk of the said county of Union,
by Henry R. Cannon, then clerk of said county, and the words "registered
in the county clerk's office" printed across the face of the
same, and the name "Henry R. Cannon, county clerk" written by
said clerk under said last-mentioned printed words on the face of the
same; and there was then and there annexed and attached to said last-mentioned
bond ten certain interest coupons, by one of which it
was stated and expressed that said defendants would pay the bearer
thereof at the American Exchange National Bank, in the city of
New York, on the first day of July, 1871, three dollars and fifty
cents for six months' interest on said last-mentioned bond; and

by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would 201 pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said 202 defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 203 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st

day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid; of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

204 And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there
205 not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, fourthly in this count

206 above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

207 And on the 1st day of January, eighteen hundred and seventy-six, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars, in said last-mentioned bond mentioned, and also the sum of thirty-five dollars, being the amount of the said ten interest coupons to the said bond in this count mentioned annexed, in all the sum of one hundred and thirty-five dollars — other parcel of the sum of fifteen thousand dollars above demanded.

Twenty-first. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township duly appointed 208 and sworn as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bonds, bearing date the same day and year last aforesaid, numbered one hundred and fifteen, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here; and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof, at the American Exchange National Bank, in the city of New York, seven years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year, until the last aforesaid principal sum should be paid, on presentation of the interest coupons to said last-mentioned bond annexed at the said bank.

And it was by said last-mentioned bond then and there declared 209 that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, and the said last-mentioned bond was afterwards, and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk" written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond ten certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, three dollars and fifty 210 cents for six months' interest on said last mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum 211 of three dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, 212 the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond, and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned, was then and there duly demanded; but that the 213 same was then and there not paid, but was refused to be paid; of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of and was all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count 214 above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

215 And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded: but that the same was then and there not paid, and was and still is refused to be paid; of which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said
city of New York, said interest coupon, ninthly in this count above
mentioned, was duly presented at said bank therein mentioned, and
payment of said sum of three dollars and fifty cents therein
216 named was duly demanded; but that the same was then and
there not paid, and was and still is refused to be paid; of
all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-six, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

217 By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars in said last-mentioned bond mentioned, and also the sum of thirty-five dollars, being the amount of the said ten interest coupons to the said bond in this count mentioned, annexed, in all the sum of one hundred and thirty-five dollars—other parcel of the sum of fifteen thousand dollars above demanded.

Twenty-second. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn as directed by the provisions of the said act of the Legislature of New Jersey entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond bearing date the same day and year last aforesaid, numbered one hundred and twenty-two, which last-mentioned bond, 218 signed and sealed as aforesaid, is shown to the court here, and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the city of New York, eight years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually, on the 1st days of July and January in each year, until the last aforesaid principal sum should be paid, on presentation of the interest coupons to said last-mentioned bond annexed at the said bank; and it was, by said last-mentioned bond, then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township, in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward, and before the same was 219 issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last mentioned bond twelve certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said 220 defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer 221 thereof at the same bank above mentioned on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another, of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of July, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of Jauuary, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the 222 said defendants would pay to the bearer thereof at the same bank above mentioned, on the 1st day of July, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned, on the 1st day of January, 1877, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff-in-fact says that before the 1st day of July, 1871, he became for valuable consideration by him paid by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon first in this count above-mentioned was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein
223 mentioned, was then and there duly demanded, but that the same was then and there not paid, but was refused to be paid, of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents, therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count
224 above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

225 And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all
226 which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eleventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said
city of New York, said interest coupon, twelfthly in this count
227 above mentioned, was duly presented at said bank therein
mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-seven, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one

hundred dollars, in said last-mentioned bond mentioned, and also the sum of forty-two dollars, being the amount of the said twelve interest coupons to the said bond in this count mentioned, annexed; in all the sum of one hundred and forty-two dollars — other
228 parcel of the sum of fifteen thousand dollars above demanded.

Twenty-third. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond bearing date the same day and year last aforesaid, numbered one hundred and twenty-three, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here; and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the
229 city of New York, nine years after the date thereof aforesaid, and also interest thereon, at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year, until the last aforesaid principal sum should be paid, on presensation of the interest coupons to said last-mentioned bond annexed at the said bank. And it was by said last-mentioned bond then and there declared that the same was one of a series of like tenor, amounting in the whole sum to eighty-five thousand dollars, issued on the faith and credit of said township, in pursuance of said act entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, and the said last-mentioned bond was afterward, and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "Registered in the county clerk's
230 office" printed across the face of the same, and the name "Henry R. Cannon, county clerk," written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond fourteen certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1872, the like sum of

three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of July, 1872, the like sum of three dollars
231 and fifty cents for six months' interest on said last-mentioned
bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which last-mentioned interest coupons it was stated and expressed that the said defend-
232 ants would pay to the bearer thereof at the same bank
above mentioned on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and ex-
233 pressed that the said defendants would pay to the bearer
thereof, at the same bank above mentioned, on the 1st day of January, 1877, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned; bond and by another of which said last-mentioned interest coupons it was stated and ex-

pressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1877, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1878, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned, bond and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such
234 holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupons, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid; of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned,
235 and payment of said sum of three dollars and fifty cents
therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which he tdefendantst then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendant then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in
236 said city of New York, said interest coupon, sixthly in this
count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, seventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

237 And afterwards, to wit, on the 1st day of July, 1875,
in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eleventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named
was duly demanded; but that the same was then and there
238 not paid, and was and still is refused to be paid; of all which
the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said city of New York, said interest coupon, twelfthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents; therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1877, in said city of New York, said interest coupon, thirteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1878, in said city of New York, said interest coupon, fourteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same 239 was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-eight, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars in said last-mentioned bond mentioned, and also the sum of forty-nine dollars, being the amount of the said fourteen interest coupons to the said bond in this count mentioned, annexed, in all the sum of one hundred and forty-nine dollars — other parcel of the sum of fifteen thousand dollars above demanded.

Twenty-fourth. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, 240 Jarvis Johnson, and John Littell, commissioners of said township duly appointed and sworn as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Pasaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered one hundred and twenty-four, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here, and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof, at the American Exchange National Bank, in the city of New York, nine years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year, until the last aforesaid principal sum should be paid, on presentation of the interest coupons to said last-mentioned bond annexed 241 at the said bank; and it was by said last-mentioned bond then and there declared that the same was one of a series of like tenor,

amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterwards, and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "Registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk" written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond fourteen certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York,
on the first day of July, 1871, three dollars and fifty cents
242 for six months' interest on said last-mentioned bond; and by
another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above
mentioned, on the 1st day of July, 1873, the like sum of three
243 dollars and fifty cents for six months' interest on the said
last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above-mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would

pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned
244 bond; and by another of which said last-mentioned interest
coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1877, the like sum of three dollars and fifty cents for six months interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was — and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1877, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond;
245 and by another of which said last-mentioned interest coupons;
it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1878, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this court above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid; of all which said defendants then and there had notice.

246 And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then

and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mention, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said
city of New York, said interest coupon, fourthly in this count above
mentioned, was duly presented at said bank therein mentioned,
and payment of said sum of three dollars and fifty cents therein
named was duly demanded; but that the same was then and
247 there not paid; and was and still is refused to be paid; of all
which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city
of New York, said interest coupon, seventhly in this count
248 above mentioned, was duly presented at said bank therein
mentioned, and payment of said sum of three dollars
and fifty cents therein named was duly demanded; but that the
same was then and there not paid, and was and still is refused to be
paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

249 And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eleventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said city of New York, said interest coupon, twelfthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents 250 therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1877, in said city of New York, said interest coupon, thirteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1878, in said city of New York, said interest coupon, fourteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

251 And on the 1st day of January, eighteen hundred and seventy-eight, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars in said last mentioned bond mentioned, and also the sum of forty-nine dollars, being the amount of the said fourteen interest coupons to the said bond in this count mentioned annexed, in all the sum of one hundred and forty-nine dollars, — other parcel of the sum of fifteen thousand dollars above demanded.

Twenty-fifth. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and

under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly
252 appointed and sworn as directed by the provisions of the said act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered one hundred and twenty-seven, which last-mentioned bond signed and sealed as aforesaid, is shown to the court here; and did thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the city of New York, nine years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year, until the last aforesaid principal sum should be paid on presentation of the interest coupons to said last-mentioned bond annexed, at the
253 said bank. And it was, by said last-mentioned bond, then and there declared that the same was one of a series of like tenor, amounting in the whole to the sum of eighty-five thousand dollars, issued on the faith and credit of said township in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward, and before the same was issued, to wit, on the said first day of January, eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union, by Henry R. Cannon, then clerk of said county, and the words "registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk" written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond fourteen certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New
254 York, on the first day of July, 1871, three dollars and fifty cents, for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants

would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on
255 the 1st day of July, 1873, the like sum of three dollars
and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same
256 bank above mentioned, on the 1st day of July, 1875, the like
sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned, on the 1st day of July, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1877, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said
257 defendants would pay to the bearer thereof at the same bank
above mentioned on the 1st day of July, 1877, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof at the same bank above mentioned on the 1st day of January, 1878, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff-in-fact says: That before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says: That heretofore, to wit, on the 1st day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid; of all
258 which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in said city of New York, said interest coupon, secondly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents
259 therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1874, in said city of New York, said interest coupon, seventhly in this count

260 above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded, but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

261 And afterwards, to wit, on the 1st day of January, 1876, in said city of New York, said interest coupon, tenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eleventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said city of New York, said interest coupon, twelfthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein
262 named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1877, in said city of New York, said interest coupon, thirteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1878, in said city of New York, said interest coupon, fourteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and
263 seventy-eight, in the said city of New York, the said last-
mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice.

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars, in said last-mentioned bond mentioned, and also the sum of forty-nine dollars, being the amount of the said fourteen interest coupons to the said bond in this count mentioned annexed, in all the sum of one hundred and forty-nine dollars — other parcel of the sum of fifteen thousand dollars above demanded.

Twenty-sixth. And whereas, also, the said defendants, on the said 1st day of January, 1869, in the county of Union aforesaid, by and under the hands and seals of the said Jonathan Bonnell, Jarvis Johnson, and John Littell, commissioners of said township, duly appointed and sworn, as directed by the provisions of the said act of the Legislature of
264 New Jersey, entitled "An act to authorize certain towns in
the counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868, did then and there make their certain other bond, bearing date the same day and year last aforesaid, numbered one hundred and twenty-eight, which last-mentioned bond, signed and sealed as aforesaid, is shown to the court here; and thereby then and there acknowledge that they, the said defendants, did owe to the bearer of said last-mentioned bond one hundred dollars, which sum they did thereby promise to pay the holder thereof at the American Exchange National Bank, in the city of New York, nine years after the date thereof aforesaid, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the 1st days of July and January in each year, until the last aforesaid principal sum should be paid, on presentation of the interest coupons to said last-mentioned bond annexed, at the said bank; and it was, by said last-mentioned bond, then and there declared that the same was one of a series of like tenor, amounting in the whole
265 to the sum of eighty-five thousand dollars, issued on the
faith and credit of said township in pursuance of said act, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railway Company," approved April 9th, 1868; and the said last-mentioned bond was afterward, and before the same was issued, to wit, on the said first day of January,

eighteen hundred and sixty-nine, duly registered in the office of the clerk of the said county of Union by Henry R. Cannon, then clerk of said county, and the words "Registered in the county clerk's office" printed across the face of the same, and the name "Henry R. Cannon, county clerk" written by said clerk under said last-mentioned printed words on the face of the same; and there was then and there annexed and attached to said last-mentioned bond, fourteen certain interest coupons, by one of which it was stated and expressed that said defendants would pay the bearer thereof, at the American Exchange National Bank, in the city of New York, on the first day of July, 1871, three dollars and fifty cents, for six months' interest on said last-mentioned bond; and by another
of which said last-mentioned interest coupons it was stated
266 and expressed that the said defendants would pay to the
bearer thereof, at the same bank above mentioned, on the 1st day
of January, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bonds; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1872, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1873, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1873, the like sum of three dollars and fifty cents for six months' interest on the said last-mentioned bond;
and by another of which said last-mentioned interest coupons
267 it was stated and expressed that the said defendants would
pay to the bearer thereof, at the same bank above mentioned,
on the 1st day of January, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1874, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1875, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons

it was stated and expressed that the said defendants would pay
268 to the bearer thereof, at the same bank above mentioned,
on the 1st day of January, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1876, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of January, 1877, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons it was stated and expressed that the said defendants would pay to the bearer thereof, at the same bank above mentioned, on the 1st day of July, 1877, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond; and by another of which said last-mentioned interest coupons
it was stated and expressed that the said defendants would
269 pay to the bearer thereof, at the same bank above mentioned,
on the 1st day of January, 1878, the like sum of three dollars and fifty cents for six months' interest on said last-mentioned bond.

And the plaintiff in fact says that before the 1st day of July, 1871, he became, for valuable consideration by him paid, by purchase of the same in public market, and then and there was holder of said last-mentioned bond and bearer thereof, and of the said last-mentioned interest coupons, and that he still continues to be such holder and bearer thereof.

And the plaintiff further says that heretofore, to wit, on the first day of July, 1871, in the city of New York, said interest coupon, first in this count above mentioned, was duly presented at said American Exchange National Bank, in the city of New York, and payment of said sum of three dollars and fifty cents therein mentioned was then and there duly demanded; but that the same was then and there not paid, but was refused to be paid; of all which said defendants then and there had notice.

And afterwards, to wit, on the 1st day of January, 1872, in
270 said city of New York, said interest coupon, secondly in this
count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1872, in said city of New York, said interest coupon, thirdly in this count above mentioned was duly presented, at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1873, in said city of New York, said interest coupon, fourthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

271 And afterwards, to wit, on the 1st day of July, 1873, in said city of New York, said interest coupon, fifthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars *of* fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1874, in said city of New York, said interest coupon, sixthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; all of which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day July, 1874, in said city of
New York, said interest coupon, seventhly in this count above men-
tioned, was duly presented at said bank therein mentioned, and
payment of said sum of three dollars and fifty cents therein named
was duly demanded; but that the same was then and there
272 not paid, and was and still is refused to be paid; of all which
the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1875, in said city of New York, said interest coupon, eighthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1875, in said city of New York, said interest coupon, ninthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1876, in said
city of New York, said interest coupon, tenthly in this count above
mentioned, was duly presented at said bank therein mentioned,
and payment of said sum of three dollars and fifty cents
273 therein named was duly demanded; but that the same was
then and there not paid, and was and still is refused to be
paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of July, 1876, in said city of New York, said interest coupon, eleventhly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1877, in said city of New York, said interest coupon, twelfthly in this count above-mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

274 And afterwards, to wit, on the 1st day of July, 1877, in said city of New York, said interest coupon, thirteenthly in this count above mentioned, was duly presented at said bank therein mentioned, and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid, of all which the defendants then and there had due notice.

And afterwards, to wit, on the 1st day of January, 1878, in said city of New York, said interest coupon, fourteenthly in this count above mentioned, was duly presented at said bank therein mentioned and payment of said sum of three dollars and fifty cents therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all which the defendants then and there had due notice.

And on the 1st day of January, eighteen hundred and seventy-eight, in the said city of New York, the said last-mentioned bond was also duly presented at said bank therein mentioned, and payment of said principal sum of one hundred dollars therein named was duly demanded; but that the same was then and there not paid, and was and still is refused to be paid; of all of which the defendants then and there had notice. 275

By means whereof an action hath accrued to the plaintiff to have and recover from the defendants the said principal sum of one hundred dollars in said last-mentioned bond mentioned, and also the sum of forty-nine dollars, being the amount of the said fourteen interest coupons to the said bond in this count mentioned annexed, in all the sum of one hundred and forty-nine dollars, — other parcel of the sum of fifteen thousand dollars above demanded.

Yet the said defendants, though often requested, have not as yet paid the said sum of fifteen thousand dollars above demanded, or any part thereof, to the said plaintiff, but to do this have hitherto wholly refused and neglected, to the damage of the plaintiff of five thousand dollars; and therefore he brings suit, &c.

276 (1.) And the said defendants, by McCarter & Keen, their attorneys, come and defend the wrong and injury when, &c., and say that they do not owe or detain the said sum of fifteen thousand dollars above demanded, or any part thereof, in manner and form as the said plaintiff hath above thereof complained against

them; and of this the said defendants put themselves upon the country.

(2.) And the said defendants, for a further plea in this behalf, by leave of the court here now for this purpose first had and obtained, according to the form of the statute in such case made and provided, say that the said plaintiff ought not to have or maintain his aforesaid action thereof against them, because they say that the said several supposed bonds or writing obligatory in the said declaration
277 mentioned, are not their deed, nor is any one of them their deeds; and of this they put themselves upon the country.

(3.) And for a further plea in this behalf, by like leave of the court here now for this purpose first had and obtained, according to the form of the statute in such case made and provided, the said defendants say that the said plaintiffs ought not to have or maintain his aforesaid action thereof against the said defendants, because they say that the said several supposed interest coupons in the said declaration mentioned were not made by and are not, and each one thereof is not, the deed, act, or promise of the said defendants; and of this they put themselves upon the country.

(4.) And for a further plea in this behalf by like leave,
278 &c., the said defendants say that the said plaintiff ought not to have or maintain his aforesaid action thereof against them because they say that the said John M. Wilcox, in the said declaration mentioned, to wit, in the year 1867, was not the assessor of taxes in or for the township of New Providence aforesaid, and was not such assessor until a long time after the said time when, &c., to wit, not until in the month of April, in the year 1868, and was not at the said time when, &c., able or competent lawfully to make the said affidavit; of all which the said plaintiff heretofore, to wit, on the first day of January, 1870, to wit, at Trenton aforesaid, had notice, and this the said defendants are ready to verify; wherefore they pray judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against them.

279 (5.) And for a further plea in this behalf by like leave, &c., the said defendants say that the said plaintiff ought not to have or maintain his aforesaid action thereof against them because they say that the said supposed consent in writing in the said declaration mentioned, purporting to state the amount of money authorized to be raised in the said township of New Providence to be invested in stock of the said railroad company, was not, before the making and delivery of the said supposed bonds or writings, obligatory, or of any of them, or at any other time, signed by a majority of the tax-payers in said township, as required by and pursuant to the statute in such case made and provided; of all which the said plaintiff heretofore, to wit, on the first day of January, 1870, to wit, at Trenton aforesaid, and before the purchase of said bonds or writings, obligatory, or the payment of any money therefore by
280 the said plaintiff, had notice, and this the said defendants are ready to verify; wherefore they pray judgment if the said

plaintiff ought further to have or maintain his aforesaid action thereof against them, &c.

(6.) And for a further plea in this behalf by like leave, &c., the said defendants say that the said plaintiff ought not to have or maintain his aforesaid action thereof against them, because they say that the said supposed consent paper in the said declaration mentioned was not signed by the representatives of a majority of the real estate situate in said township in value; nor did the said persons whose names purported to have been thereunto signed, constitute a majority of the taxpayers of said township appearing on the assessment rolls of
said township for the year eighteen hundred and sixty-seven;
281 nor did they, the said last-mentioned persons, whose names
purported to have been signed to the supposed consent aforesaid represent a majority of the landed property of said township appearing on the assessment roll of said township for the year eighteen hundred and sixty-seven; of all which the said plaintiff heretofore, to wit, on the first day of January, A. D. 1870, and before the purchase of the said bonds or writings obligatory or of any of them, to wit, at Trenton aforesaid, had full notice; all which the said defendants are ready to verify; wherefore they pray judgment if the said plaintiff ought further to have or maintain his aforesaid action thereof against them, &c.

(7.) And for a further plea in this behalf by like leave, &c., the said defendants say that the said plaintiff ought not to have or
maintain his aforesaid action against them, because they say
282 that the said commissioners, to wit, Jarvis Johnson, John Lit-
tell, and Jonathan Bonnel, in said declaration mentioned, did not, nor did any of them at any time, as such commissioners, borrow any money whatsoever on the faith or credit of the said township of New Providence; nor did said commissioners or any of them at any time sell any of said supposed bonds or obligations in the said declaration mentioned, nor any of the bonds of the series of bonds in the said declaration mentioned for money; of all of which the said plaintiff heretofore, to wit, on the first day of January, 1870, to wit, at Trenton, and before the purchase by said plaintiff of said bonds or any of them had notice, and this the said defendants are ready to verify; wherefore they pray judgment if the said plaintiff ought further to have or maintain his aforesaid action thereof against them.

283 (8.) And for a further plea in this behalf, by like leave &c.,
the said defendants say that the said plaintiff ought not to have or maintain his aforesaid action thereof against them, because they say that the said affidavit of the said John M. Wilcox in the said declaration mentioned, and the facts therein stated, are not true, but are erroneous and untrue, and that the truth was contrary to the allegations of said affidavit; that the persons whose names are signed to the consents referred to in the said affidavit did not in the year 1867, nor at any time after that, constitute a majority of the tax-payers of said township of New Providence, and did not repre-

sent a majority of the real property in said township in value, and it was not true that said persons, whose names were to said papers, called a consent or consents, constituted a majority of the
284 tax-payers of said township appearing upon the assessment
roll of said township for the year 1867; of all which the said paintiff heretofore, to wit, on the first day of January, 1870, and before the said plaintiff became the purchaser of the said bonds or obligations in said declaration mentioned, or any of them, had notice, and this the said defendants are ready to verify; wherefore they pray judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against them, &c.

(9.) And for a further plea in this behalf the said defendants, by leave of the court for this purpose first had and obtained, according to the form of the statute in such case made and provided, say that the said plaintiff ought not to have or maintain his aforesaid action thereof against them, because they say that the said supposed
285 bonds or writings obligatory in the said declaration mentioned
and therein alleged to belong to the said plaintiff were not, nor was any of them, registered in the office of the county clerk of the said county of Union, nor were the words "registered in the county clerk's office" printed or written across the face of said bonds, or any of them, and attested by the signature of the said county clerk when so registered, before the said commissioners negotiated, sold, transferred, or delivered said supposed bonds or writings obligatory, nor did the said commissioners, or any of them, ever register the said supposed bonds, or any of them, pursuant to the act of the Legislature of the State of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Rail-
286 road Company," approved April 9th, 1868; and this the said
defendants are ready to verify; wherefore they pray judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against them.

(10.) And for a further plea in this behalf the said defendants, by leave as aforesaid, say that the plaintiff ought not to have or maintain his aforesaid action thereof against them, because they say that the said Jonathan Bonnel, Jarvis Johnson, and John Littell, in the said declaration alleged to be commissioners for said township of New Providence, did not, nor did either of them, before they entered upon the discharge of their duties under the said act of the Legislature in the said declaration mentioned or before the said alleged writings obligatoty in said declaration mentioned were issued
287 jointly and severally, and two or more sureties, execute to the
said township of New Providence by its corporate name or otherwise a bond in a penal sum equal to the amount to be issued by said township under and by virtue of said act of the Legislature of New Jersey, conditioned for the faithful discharge of their duties as commissioners under the said act, and for the just and honest application by them of all moneys, stocks, or bonds issued by them or coming into their hands, according to the true intent and meaning

of the said act of the Legislature, and this the said defendants are ready to verify; wherefore they judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against them, &c.

(11.) And for a further plea in this behalf the defendants, by like
leave as aforesaid, say that the said Jonathan Bonnel, Jarvis
288 Johnson, and John Little in the said declaration mentioned
were not duly appointed commissioners of the said township
of New Providence, as directed by the provisions of the said act of the Legislature of New Jersey in the said declaration mentioned, and of this the defendants put themselves upon the country, &c.

(12.) And for a further plea in this behalf the said defendants, by like leave as aforesaid, say that the plaintiff ought not to have or maintain his aforesaid action thereof against them, because they say that the said Jonathan Bonnel, Jarvis Johnson, and John Little, in the said declaration alleged to be commissioners for said township of New Providence, did not, nor did either of them, before they entered upon the discharge of their duties under the act of the
Legislature in the said declaration mentioned, or before the
289 said alleged writings obligatory in said declaration mentioned
were issued, jointly and severally, and two or more sureties,
executed to the said township of New Providence, by its corporate name or otherwise, a bond in a penal sum equal to the amount to be paid by said township, under and by virtue of said act of the Legislature of New Jersey, conditioned for the faithful discharge of their duties as commissioners under the said act and for the just and honest application by them of all moneys, stocks, or bonds issued by them or coming into their hands, according to the true intent and meaning of the said act of the Legislature, of which the said plaintiff at the time and before he became the holder and bearer of said supposed writings obligatory had due and sufficient notice; and this they are ready to verify; wherefore they pray judgment if
the said plaintiff ought to have or maintain his aforesaid
290 action thereof against them, &c.

(13.) And for a further plea in this behalf the said defendants, by like leave as aforesaid, say that the plaintiff ought not to have or maintain his aforesaid action against them, because they say that the said several supposed causes of action in the said declaration mentioned did not, nor did either of them, accrue to the plaintiff at any time within six years next before the commencement of this suit in manner and form as the said plaintiff has above thereof complained against the said defendants; and this the defendants are ready to verify; wherefore they pray judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against them, &c.

(14.) And for a further plea in this behalf the said defend-
291 ants, by like leave as aforesaid, say that as to so much of said
supposed causes of action in the said declaration mentioned
as are founded on or are therein alleged to arise from the non-pay-

ment of the said interest coupons the said several supposed causes of action did not, nor did either of them, accrue to the plaintiff at any time within six years next before the commencement of this suit in manner and form as the said plaintiff hath above thereof complained against the said defendants; and this the said defendants are ready to verify; wherefore they pray judgment if the said plaintiff ought to have or maintain his aforesaid action thereof against them.

292 (1.) And the said plaintiff as to the said pleas of the said defendants by them firstly and secondly and thirdly above pleaded, whereof they have put themselves upon she country, doth the same.

(2.) And the said plaintiff as to the said plea by the said defendants fourthly above pleaded says that the plaintiff by reason of anything in that plea contained ought not to be barred from having and maintaining his aforesaid action against the defendants, because he says that the said John M. Wilcox, in the said declaration and plea mentioned at the same time when, &c., was the assessor of the township of New Providence, and was in all things competent to make the said affidavit in the said declaration and plea in that behalf mentioned, and this the plaintiff prays may be enquired of by the country.

293 (3.) And the said plaintiff as to the said plea by the said defendants fifthly above pleaded says that the said plaintiff by reason of anything in that plea contained ought not to be barred from having and maintaining his aforesaid action against the defendants, because he says that the said paper writing, called a consent in writing in the said declaration and plea mentioned, was at the said several times when, &c., signed by a majority of the tax-payers of said township in all respects as required by the provisions of said act of the Legislature, and this the plaintiff prays may be enquired of by the country.

(4.) And the said plaintiff as to the said plea by the said defendants sixthly above pleaded says that the said plaintiff by reason of anything in that plea contained ought not to be barred from 294 having and maintaining his aforesaid action against the said defendants, because he says that the said consent-paper in the said declaration and plea mentioned at the said time when, &c., was signed by the representatives of a majority in value of the real estate situate in said township and the persons whose names were thereunto signed did constitute a majority of the tax-payers of said township appearing on the assessment rolls of said township for the year eighteen hundred and sixty-seven, and did represent a majority of the landed property of said township, appearing on the said last-mentioned assessment roll, and this the plaintiff prays may be enquired of by the country.

(5.) And the said plaintiff as to the said plea by the said defendants seventhly above pleaded says that the plaintiff by reason 295 of anything in that plea contained ought not to be barred from having and maintaining his aforesaid action against them, because he says that the said commissioners in said declaration and plea mentioned did, as such commissioners, heretofore and before the first day of July, eighteen hundred and seventy-one, to wit, on the first day of January, eighteen hundred and seventy, borrow a large sum of money, to wit, the sum of eighty-five thousand dollars, on the faith and credit of said township of New Providence, and did sell and negotiate the said several bonds for the said sum of money, and this the plaintiff prays may be enquired of by the country.

(6.) And the said plaintiff, as to the said plea by the said defendant eighthly above pleaded, says that the plaintiff, by reason of anything in that plea contained, ought not to be barred from 296 having and maintaining his aforesaid action against them, because he says that the said affidavit of the said John M. Wilcox in the said declaration and plea mentioned, and the facts therein stated and the allegations thereof, are in all things true and are not erroneous, and the persons whose names are signed to the said consent papers mentioned in said affidavit did in the year 1867 constitute a majority of the taxpayers of said township of New Providence, and did represent a majority in value of the real property of said township, and did constitute a majority of the tax-payers of said township appearing upon the assessment roll of said township for the year 1867, and this the plaintiff prays may be enquired of by the country.

(7.) And for a further replication to the said several pleas by the defendants fourthly, fifthly, sixthly, seventhly, and eighthly 297 above pleaded, the said plaintiff, by leave of the court for that purpose first had and obtained, saith that by reason of anything in the said several pleas or any of them contained the said plaintiff ought not to be barred from having and maintaining his aforesaid action, because he says that he did not at any time before he purchased the said several bonds in said declaration mentioned, or at any other time whatever, have any kind of notice or knowledge whatever of any or either of the matters and things in said several pleas or either of them mentioned and set forth, and of this he puts himself upon the country.

(8.) And the said plaintiff, as to the said plea by the said defendants ninthly above pleaded, says that the said plaintiff, by reason of anything in the said plea contained, ought not to be barred from having and maintaining his said action against them, because 298 he says that each and every of the said bonds or writings obligatory in the plaintiff's declaration mentioned before the said commissioners sold, negotiated, transferred, and delivered the same, to wit, on the first day of January, eighteen hundred and seventy, was and were by the said commissioners duly registered in the office of the clerk of the county of Union by Henry R. Cannon, then being the clerk of said county, and the words "registered in the county clerk's office" printed across the face of each of the same, and the words "Henry R. Cannon, clerk," written under the last-mentioned words by the said Henry R. Cannon, then being the clerk of said county of Union, and of this he puts himself upon the country.

(9.) And the said plaintiffs, as to the said pleas by the said defendant's tenthly and twelfthly, above pleaded, says that by rea-
299 son of anything in said pleas contained he ought not to be
barred from having and maintaining his aforesaid action, because he says that the said commissioners in the said declaration and plea named did, before entering upon the duties of their office, and before issuing any of said bonds, to wit, on the first day of August, eighteen hundred and sixty-eight, and before the said bonds and writings obligatory were issued, jointly and severally, with two and more sureties, execute to the said The Inhabitants of the Township of New Providence, in the county of Union, a bond in a penal sum equal to the amount to be paid by said township, under and by virtue of the said act of the Legislature, to wit, the sum of eighty-five thousand dollars, conditioned for the faithful discharge of their duties as commissioners under the said act, and for the just and honest application by them of all moneys, stocks, and bonds issued
300 by them and coming into their hands, according to the true
intent and meaning of the said act of the Legislature; and this the plaintiff prays may be enquired of by the country.

(10.) And the said plaintiff, as to the said plea of the said defendants by them eleventhly above pleaded, whereof they have put themselves upon the country, doth the like.

(11.) And for further replication to the said plea by the said defendants twelfthly above pleaded by leave of the court for that purpose first had and obtained, the said plaintiff says that by reason of anything in that plea contained he ought not to be barred from having and maintaining his aforesaid action thereof against said defendants, because he says that he, the said plaintiff, at or before the time when he became the holder and bearer of said several bonds or writings obligatory, or at any other time whatever, never
301 did have any knowledge or notice whatever of the said sev-
eral matters and things in said last-mentioned plea in that behalf alleged and contained; and of this he puts himself upon the country.

(12.) And the said plaintiff, as to the said pleas by the said defendants thirteenthly and fourteenthly above pleaded, saith that by reason of anything in said pleas, or either of them, contained the said plaintiffs ought not to be barred from having and maintaining his aforesaid action against them, because he says that the said several causes of action in said declaration set forth and each of them did accrue within six years next before the commencement of this action, and this the plaintiff prays may be enquired of by the country.

(13.) And for a further replication in this behalf as to the
302 said pleas by the said defendants fourthly, fifthly, sixthly,
seventhly, eighthly, ninthly, tenthly, and twelfthly above

pleaded, by leave of the court for that purpose first had and obtained, the said plaintiff says that the said plaintiff, by reason of anything in the said several pleas contained, ought not to be barred from having and maintaining his aforesaid action against the said defendants, because he says that after the said Jonathan Bonnell, Jarvis Johnson, and John Little, in said declaration mentioned, had been appointed and sworn as commissioners for said township, as in said declaration is mentioned and set forth, and after the filing in the office of the clerk of said county of Union of the said paper writing so signed by said persons purporting to be tax-payers of said county, with the several affidavits of said commissioners and of said John M. Wilcox thereto annexed, as in said declaration is in that behalf set forth, and after the said defendants by the
303 hands and under the seals of the said commissioners had made and executed the said several bonds or writings obligatory in said declaration mentioned, and after the same had been so endorsed as registered in the office of the clerk of said county of Union, as is in that behalf alleged in said declaration, to wit, on the first day of July, 1870, the same and each of them were by said commissioners sold, negotiated, and delivered for a valuable consideration received by said commissioners to divers innocent purchasers thereof, and became and were negotiable commercial instruments, known and dealt in as such in the open market of the United States, and in the due and usual course of trade in such instruments came to the hands of divers innocent purchasers for a valuable consideration paid therefore in the said open market in the usual course of business and without any notice or knowledge whatever of
304 any of the several matters and things in the said pleas in this replication mentioned, contained and set forth; that is to say, the said bonds or writings obligatory severally numbered three, one hundred and one, one hundred and two, one hundred and three, one hundred and four, one hundred and five, one hundred and six, one hundred and seven, one hundred and eight, one hundred and nine, one hundred and ten, one hundred and eleven, and one hundred and fifteen, were so purchased in the open market in the usual course of trade for a valuable consideration therefor paid by and came to the hands and possession of one Samuel B. Halsey, of the county of Morris, in said State of New Jersey, and said bonds, numbered, respectively, six, seven, eight, and forty-eight, were in like manner so purchased in the open market in the usual course of trade for a valuable consideration therefor paid by and came to the hands and possession of one John Marsh, of the place last mentioned, and said bond numbered forty-nine was in like man-
305 ner so purchased in the open market in the usual course of trade for a valuable consideration therefore paid, and came to the hands and possession of one Charles F. Ogden, of the same place, and said bond numbered fifty was in like manner so purchased in the open market in the usual course of trade for a valuable consideration therefore paid by, and came to the hands and possession of one John L. Baldwin, of the same place; and said bonds numbered fifty-one and one hundred and twenty-four, re-

and the words "Henry R. Cannon, clerk," written under the last-mentioned words by the said Henry R. Cannon, then being the clerk of said county of Union, and of this he puts himself upon the country.

(9.) And the said plaintiffs, as to the said pleas by the said defendant's tenthly and twelfthly, above pleaded, says that by rea-
299 son of anything in said pleas contained he ought not to be
barred from having and maintaining his aforesaid action, because he says that the said commissioners in the said declaration and plea named did, before entering upon the duties of their office, and before issuing any of said bonds, to wit, on the first day of August, eighteen hundred and sixty-eight, and before the said bonds and writings obligatory were issued, jointly and severally, with two and more sureties, execute to the said The Inhabitants of the Township of New Providence, in the county of Union, a bond in a penal sum equal to the amount to be paid by said township, under and by virtue of the said act of the Legislature, to wit, the sum of eighty-five thousand dollars, conditioned for the faithful discharge of their duties as commissioners under the said act, and for the just and honest
application by them of all moneys, stocks, and bonds issued
300 by them and coming into their hands, according to the true
intent and meaning of the said act of the Legislature; and this the plaintiff prays may be enquired of by the country.

(10.) And the said plaintiff, as to the said plea of the said defendants by them eleventhly above pleaded, whereof they have put themselves upon the country, doth the like.

(11.) And for further replication to the said plea by the said defendants twelfthly above pleaded by leave of the court for that purpose first had and obtained, the said plaintiff says that by reason of anything in that plea contained he ought not to be barred from having and maintaining his aforesaid action thereof against said defendants, because he says that he, the said plaintiff, at or before the time when he became the holder and bearer of said several bonds or
writings obligatory, or at any other time whatever, never
301 did have any knowledge or notice whatever of the said sev-
eral matters and things in said last-mentioned plea in that behalf alleged and contained; and of this he puts himself upon the country.

(12.) And the said plaintiff, as to the said pleas by the said defendants thirteenthly and fourteenthly above pleaded, saith that by reason of anything in said pleas, or either of them, contained the said plaintiffs ought not to be barred from having and maintaining his aforesaid action against them, because he says that the said several causes of action in said declaration set forth and each of them did accrue within six years next before the commencement of this action, and this the plaintiff prays may be enquired of by the country.

(13.) And for a further replication in this behalf as to the
302 said pleas by the said defendants fourthly, fifthly, sixthly,
seventhly, eighthly, ninthly, tenthly, and twelfthly above

pleaded, by leave of the court for that purpose first had and obtained, the said plaintiff says that the said plaintiff, by reason of anything in the said several pleas contained, ought not to be barred from having and maintaining his aforesaid action against the said defendants, because he says that after the said Jonathan Bonnell, Jarvis Johnson, and John Little, in said declaration mentioned, had been appointed and sworn as commissioners for said township, as in said declaration is mentioned and set forth, and after the filing in the office of the clerk of said county of Union of the said paper writing so signed by said persons purporting to be tax-payers of said county, with the several affidavits of said commissioners and of said John M. Wilcox thereto annexed, as in said declaration is in that behalf set forth, and after the said defendants by the
303 hands and under the seals of the said commissioners had made and executed the said several bonds or writings obligatory in said declaration mentioned, and after the same had been so endorsed as registered in the office of the clerk of said county of Union, as is in that behalf alleged in said declaration, to wit, on the first day of July, 1870, the same and each of them were by said commissioners sold, negotiated, and delivered for a valuable consideration received by said commissioners to divers innocent purchasers thereof, and became and were negotiable commercial instruments, known and dealt in as such in the open market of the United States, and in the due and usual course of trade in such instruments came to the hands of divers innocent purchasers for a valuable consideration paid therefore in the said open market in the usual course of business and without any notice or knowledge whatever of
304 any of the several matters and things in the said pleas in this replication mentioned, contained and set forth; that is to say, the said bonds or writings obligatory severally numbered three, one hundred and one, one hundred and two, one hundred and three, one hundred and four, one hundred and five, one hundred and six, one hundred and seven, one hundred and eight, one hundred and nine, one hundred and ten, one hundred and eleven, and one hundred and fifteen, were so purchased in the open market in the usual course of trade for a valuable consideration therefor paid by and came to the hands and possession of one Samuel B. Halsey, of the county of Morris, in said State of New Jersey, and said bonds, numbered, respectively, six, seven, eight, and forty-eight, were in like manner so purchased in the open market in the usual course of trade for a valuable consideration therefor paid by and came to the hands and possession of one John Marsh, of the place last mentioned, and said bond numbered forty-nine was in like man-
305 ner so purchased in the open market in the usual course of trade for a valuable consideration therefore paid, and came to the hands and possession of one Charles F. Ogden, of the same place, and said bond numbered fifty was in like manner so purchased in the open market in the usual course of trade for a valuable consideration therefore paid by, and came to the hands and possession of one John L. Baldwin, of the same place; and said bonds numbered fifty-one and one hundred and twenty-four, re-

spectively, were in like manner purchased in the open market in the usual course of trade for a valuable consideration therefore paid by and came to the hands and possession of one Edwin Ford, of the same place; and said bonds numbered, respectively, one hundred and twenty-seven and one hundred and twenty-eight were in like manner purchased in the open market in the usual course of
306 trade for a valuable consideration therefore paid by and
came to the hands and possession of one Joseph Lovell; and said bonds numbered, respectively, one hundred and twenty-two and one hundred and twenty-three were in like manner purchased in the open market in the usual course of trade for a valuable consideration therefor paid by and came to the hands and possession of one Caroline E. Schofield, of the same place; and said bond numbered forty-six was in like manner purchased in open market in the usual course of trade for a valuable consideration therefor paid by, and came to the hands and possession of one, James Jackson, and the said Samuel B. Halsey, John Marsh, Charles F. Ogden, John L. Baldwin, Edwin Ford, Joseph Lowell, Caroline E. Schofield, and James Jackson had not at the said time, &c., or at any other time, nor had either of them any notice or knowledge what-
307 ever of the said several matters and things in the said several
pleas above in this replication in that behalf mentioned, or of any of them or any part thereof. And afterwards, to wit, on the day and year last aforesaid, the said several bonds or writings obligatory were by the said several persons last above mentioned, so being the holders and owners thereof, duly assigned and transferred to this plaintiff, who then and there became and was and ever since hath continued to be the lawful owner and holder thereof; and this the plaintiff is ready to verify. Wherefore he prays judgment of his said debt and damages for the detention thereof in the said declaration demanded to be adjudged to him.

308 And the said defendants as to the second, third, fourth,
fifth, seventh, eighth, ninth, eleventh, and twelfth replications of the said plaintiffs, and wherefore he has put himself upon the country, do the like.

And the said defendants say that the thirteenth replication of said plaintiff to the said fourth, fifth, sixth, seventh, eighth, ninth, tenth, and twelfth pleas of the said defendants, and the matters therein contained, in manner and form as the same are above pleaded and set forth, are not sufficient in law for the said plaintiff to have or maintain his aforesaid action thereof against the said defendants, and that they, the said defendants, are not bound by law to answer the same; and this the said defendants are ready to verify; wherefore by reason of the insufficiency of the said replication in this behalf the said defendant prays judgment if the said plaintiff
309 ought to have or maintain his aforesaid action thereof against
them, &c.

310 And the said plaintiff saith that the said thirteenth repli-
cation to the said fourth, fifth, sixth, seventh, eighth, ninth, tenth, and twelfth pleas of the said defendant, and the matters therein contained, in manner and form as the same are above

stated and set forth, are sufficient in law for the said plaintiff to have and maintain his aforesaid action thereof against the said defendants, and the said plaintiff is ready to prove and verify the same as the court here shall direct and award; wherefore and inasmuch as the said defendants have not answered the said replication nor hitherto in any manner denied the same, the said plaintiff prays judgment of his said debt above demanded and damages for the detention of the same to be adjudged to him, &c.

311 At which day, before the said court, come as well the said Abraham Halsey as the said The Inhabitants of the Township of New Providence in the County of Union, by their respective attorneys aforesaid, whereupon all and singular the premises aforesaid being seen and by the said court here fully understood, and mature deliberation being thereupon had, it appears to the said court here that the replication aforesaid, by the said Abraham Halsey above in manner and form aforesaid pleaded, and the matters therein contained, are sufficient in law to maintain the aforesaid writ of the said Abraham Halsey; therefore, it is considered that the said The Inhabitants of the Township of New Providence in the County of Union, do further answer to the said writ of the said Abraham Halsey.

312 And the said defendants, as to the said thirteenth replication of the said plaintiff to the said fourth, fifth, sixth, seventh, eighth, ninth, tenth, and twelfth pleas of the said defendants saith that the said plaintiff ought not by reason of anything by him in that replication alleged, to have or maintain his aforesaid action thereof against them, the said defendants, because they say that the said Samuel B. Halsey, John Marsh, Charles F. Ogden, John L. Baldwin, Edwin Ford, Joseph Lovell, Caroline E. Scofield, and James Jackson, at the same time when they severally assigned the said bonds to the said plaintiff in manner and form as is in the said thirteenth replication alleged, and at the time of the commencement of this suit, were, and each of them was, a citizen of the State of New Jersey, and that the said supposed bonds or writings obligatory severally numbered three, one hundred and one, one hundred and two, one hundred and three, one hundred and four, one hundred and five, one hundred and six, one hundred and seven, one hundred and eight, one hundred and nine, one hundred and ten, one hundred and eleven, and one hundred and fifteen were not, nor was either of them, purchased in open market by, and did not come to the hands and possession of, said Samuel B. Halsey in the usual course of trade for a valuable consideration therefor paid by the said Samuel B. Halsey.

And that the said supposed bonds or writings obligatory in said thirteenth replication mentioned, numbered respectively six, seven, eight, and forty-eight, were not, nor was either of them, purchased in open market by, and did not come in the hands and possession of, said John Marsh in the usual course of trade for a valuable consideration therefor paid by the said John Marsh. 313

And that the said supposed bond or writing obligatory numbered forty-nine was not purchased in the open market by, and did not come into the hands and possession of, the said Charles F. Ogden in the usual course of trade, for a valuable consideration therefor paid by the said Charles F. Ogden.

And that the said supposed bond or writing obligatory, numbered fifty, was not purchased in the open market by, and did not come to the hands and possession of, the said John L. Baldwin in the usual course of trade, and for a valuable consideration therefor paid the said John L. Baldwin.

And that the said supposed bonds or writing obligatory, numbered fifty-one and one hundred and twenty-four, were not, nor was either of them, purchased in the open market by, and did not come to the hands and possession of, the said Edwin Ford in the usual course of trade, and for a valuable consideration therefor paid by the said Edwin Ford.

And that the said supposed bonds or writings obligatory, numbered respectively one hundred and twenty-seven and one hundred and twenty-eight, were not, nor was either of them, purchased in the open market by, and did not come to the hands and possession of, the said Joseph Lovell in the usual course of trade, for a valuable consideration therefor paid by the said Joseph Lovell.

And that the said supposed bonds or writings obligatory, numbered respectively one hundred and twenty-two and one hundred and twenty-three, were not, nor was either of them, purchased in the open market by, and did not come to the hands and possession of, the said Caroline E. Scofield in the usual course of trade, for
314 a valuable consideration therefor paid by the said Caroline E. Scofield.

And that the said supposed bond or writing obligatory, numbered forty-six, was not purchased in the open market by, and did not come into the hands and possession of, the said James Jackson in the usual course of trade, for a valuable consideration therefor paid by the said James Jackson.

And that the said Samuel B. Halsey, John Marsh, Charles F. Ogden, John L. Baldwin, Edwin Ford, Joseph Lovell, Caroline E. Scoffield, and James Jackson, had each of them at the said several times when they respectively became the owners or holders of the said supposed bonds or writings obligatory, so by them respectively assigned to the plaintiff, as is in the said replication mentioned, full notice and knowledge of the several matters and things in the said fourth, fifth, sixth, seventh, eighth, ninth, tenth, and twelfth pleas alleged and contained.

And of this the said defendants put themselves upon the country, &c.

315 Afterwards, to wit, at the circuit court holden at Trenton, in said district, before the honorable the judge of the said court, on the twenty-sixth day of May, in the year of our Lord eighteen hundred and eighty-one, according to the form of the statute in such case made and provided, come as well the said plaintiff as the said defendants by their respective attorneys within mentioned, and the jurors of the jury, between the parties aforesaid, in the plea aforesaid, being also summoned, come, who to speak the

truth of the matters and things within contained, being chosen, tried, and sworn, say upon their oath that the said defendants do owe to the said plaintiff the said sum within demanded in manner and form as the said plaintiff hath in his said declaration alleged; and they assess the debt and damages of the said plaintiff, on occasion of the detaining the within debt, over and above his costs and charges by him about his suit in this behalf expended to fifteen thousand seven hundred and seventy-seven dollars and eighteen cents, and for those costs and charges to two hundred and four dollars and seventy
316 cents.

Therefore it is considered that the said Abraham Halsey do recover against the said The Inhabitants of the Township of New Providence, in the county of Union, his said debt and his damages, costs, and charges aforesaid to fifteen thousand nine hundred and eighty-one dollars and eighth-eight cents, by the said court now here adjudged to the said Abraham Halsey, and with his assent.

And the said The Inhabitants of the Township of New Providence, in the county of Union, in mercy, &c.

Judgment signed this twenty-sixth day of May, eighteen hundred and eighty-one.

JOHN T. NIXON, *J.*

317 *Bill of Exceptions. Filed November* 22, 1881. *In Debt.*

Circuit Court of the United States for the Third Circuit and District of New Jersey.

THE INHABITANTS OF THE TOWNSHIP OF NEW PROVIDENCE IN THE COUNTY OF UNION
*adsum*
ABRAHAM HALSEY.

Be it remembered that on the twenty-fourth day of May, in the year of our Lord one thousand eight hundred and eighty-one, at a circuit court of the United States for the third circuit and district of New Jersey, before the Honorable John T. Nixon, a judge of said court, the issues joined in the above-stated cause between the said parties (*pro ut* the pleadings) came on to be tried by a jury, for that purpose duly empanelled, in the presence of Henry C. Pitney, Esq., the attorney of the plaintiff, and of Thomas N. McCarter, attorney of the defendant, and thereupon the attorney of the plaintiff, to maintain the issue on his part, offered and put in evidence an original appointment made and signed by the Honorable David
318 A. Depue, a judge of the circuit court of the county of Union,
and also the minutes of the said circuit court of the county of Union, *pro ut* the same, whereby it appeared that on the sixth day of July, in the year 1868, Jarvis Johnson, John Lettels, and Johnathan Bonnell were duly appointed commissioners for the township of New Providence, under the act of the Legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union, to issue bonds and

take stock in the "Passaic Valley and Peapack Railroad Company," which was approved April 9, 1868, *pro ut* said act.

And said plaintiff's attorney also offered and put in evidence the official ovet of the said commissioners, *pro ut* the same.

Plaintiff's counsel also, in further support of the issue on his part, produced before the court three papers purporting to be the consents of tax payers and owners of real estate in said township, with affidavits annexed of one of said commissioners to each of said papers, the first being sworn to by Jarvis Johnson, the next by John
319 Lettels, and third by Johnathan Bonnell, the three together
forming the set and being accompanied by the affidavit of John M. Wilcox, as assessor of said township, made on the 9th day of November, 1868, before John C. Noe, justice of the peace, *pro ut* the same.

The foregoing original papers and records were produced by a deputy of the clerk of Union county, who is also clerk of the Union county circuit court, which deputy attended under subpœna.

And thereupon plaintiff called and had sworn and examined as a witness DANIEL R. VALENTINE, who testified as follows:

(By Mr. PITNEY:)

Q. Did you know John M. Wilcox?

A. Yes, sir.

Q. Did he hold office in the township of New Providence at that time?

A. He was assessor.

Q. Assessor of the township?

A. Assessor of the township.

Q. Did you know John C. Noe?

A. Yes, sir.

Q. What was his office, if any?

A. He was a justice of the peace.

Q. Do you know the handwriting of Mr. Wilcox?

320 A. Yes, sir.

Q. (Handing witness a paper.) Is that his handwriting?

A. Yes, sir; that looks like it.

Q. John C. Noe?

A. Yes, sir; that is John C. Noe's.

Q. Do you know Jonathan Bonnell's handwriting?

A. I think I do.

Q. (Handing witness a paper.) Is that it?

A. I would not say positively; I think it is.

Q. Do you know John Littel's handwriting?

A. Yes, sir.

Q. (Handing witness a paper.) Look at that.

A. Yes, sir.

Q. And the justice of the peace, too?

A. Yes, sir.

Q. Where is John C. Noe?

A. He is here in this room.

Q. Do you know Jarvis Johnson's handwriting?

A. I did once.

Q. (Handing witness a paper.) What do you think of that?

A. I think that is his handwriting, but then I have not seen it for a number of years.

Q. And the signature of John C. Noe again?

321 A. Yes sir; that I remember very well.

Q. (Handing witness a paper.) I show you a second batch or set. Do you recognize the signature of Jarvis Johnson again?

A. Yes, sir.

Q. Do you know Mr. Bassenger?

A. Yes, sir.

Q. Was he a commissioner there?

A. Not that I remember.

Q. John M. Wilcox again. Do you recognize that?

A. I should think that was his handwriting.

Cross-examination by Mr. McCarter:

Q. In what year was John M. Wilcox assessor?

A. I could not tell what year. I do not remember what year. I remember his being assessor, but could not tell you what year.

Q. For how many years was he assessor?

A. I could not tell you that.

Q. You cannot tell whether he was more than one year or not?

A. No, sir.

Q. How do you know he was assessor at all?

A. I remember his being assessor. I lived there in the township and remember his being assessor.

322 Q. But for what year or how many years you cannot tell?

A. No, sir; I cannot say what year.

Q. When did you leave the township?

A. It is a year last April since I left New Providence township.

Q. You still live, do you not, in what was formerly a part of New Providence?

A. Yes, sir; in Summit.

Q. Summit township was set off from New Providence by law?

A. Yes, sir.

Q. Do you remember when?

A. I do not remember when.

Q. Since these proceedings?

A. It was pending these proceedings.

Redirect:

Q. Do you recollect when these signatures were being gotten; was not Mr. Wilcox assessor at that time?

A. I think he was.

Plaintiff's counsel offered the several consent papers referred to in the testimony of this witness and shown to him.

323 Defendants' counsel objected to the same, because it did not appear by the paper that Mr. Wilcox was assessor at that time. Affidavit was made that he was assessor in 1867.

The COURT: Supposing that the plaintiff will be able to show one of these facts, I will admit the paper. I shall rule it out if it does not appear that he was assessor at that time or had been in 1867.

DEFENDANTS' COUNSEL: I desire to take an exception to the rule of the court, because it is on a hypothesis.

The COURT: Very well, sir.

And thereupon the plaintiff further proved by the testimony of said Daniel R. Valentine the signatures of the commissioners, Jarvis Johnson, John Littell, and Jonathan Bonnell, to the several bonds declared on in the declaration in the cause.

The plaintiff also called and had sworn as a witness in said cause PETER T. WOOD, who testified as follows:

Direct examination by Mr. PITNEY:

Q. You are clerk in the New Providence township?

324 A. Yes, sir.

Q. Have you possession of the papers of that township?

A. I have.

Q. Have you the copies of the consent-papers which have been shown here?

A. Yes, sir.

Q. Let me see them if you please.

(Witness produced papers.)

Q. Those you got from the files of the township, did you not?

A. Yes, sir.

PLAINTIFF'S COUNSEL: I have a certified copy of the first batch of consent-papers certified to by Mr. Cannon under date of November 20th, 1868.

Q. How long have you known them to be in the possession of the clerk of the township?

A. I could not say positively. I think about '76 was the first I knew anything about them. It was when the suit was brought.

Q. How long have you been clerk?

A. Three years and one year intervening.

Q. You were clerk in 1876?

A. No, sir; '77, '79, and '80.

Q. Who was clerk before you?

325 A. I could only tell by reference to the township record.

Q. Don't you recollect who was clerk before you?

A. Wm. Stavers was immediately before me.

Q. Did you receive those papers from your predecessor in office?

A. Yes, sir. I could give you most of the names along back, but I could not give them positively or give the dates.

Q. Where is John M. Wilcox now?

A. In this room.

Q. Do you know when he was assessor in New Providence township?

A. 1868.

Q. Was he not assessor in 1869?

A. No, sir.

Q. Was he in 1867?

A. No, sir.

Q. Have you here the bond given by those commissioners of the township?

A. I have. (Witness produced the paper.)

Q. Is that the paper now?

A. Yes, sir; that is the paper as I found it filed; that is the only evidence I have. I presume it is the original bond.

Q. Did you get this also from your predecessor in office?

326 A. I did.

Cross-examination by Mr. McCarter:

Q. What years were you clerk?

A. I am not positive without referring to the record, but I think it was 1877, '79, and '80.

Q. And you are clerk now?

A. Yes, sir.

Q. Then 1881, too?

A. Yes, sir.

Q. And you say Mr. Wilcox was not assessor either in 1869 or 1867?

A. No, sir.

Q. Who was assessor in 1869?

A. Amos Potter.

Q. And in 1867?

A. Amos Potter, in both those years. Wilcox was the assessor between the two, in 1868. So the records show.

Q. Independent of the record, what is your recollection and knowledge about it, as a resident of the township?

A. I could not remember.

Q. Have you the records of the township here?

A. Yes, sir; I have the assessor's book here.

Q. That shows that Amos Potter was the assessor in 1867. The assessor's roll is certified by him as assessor.

327 Plaintiff's counsel objected.

Plaintiffs offered in evidence the bond of the commissioners and a copy of the consent-papers.

Defendants' counsel objected to the copy of the last consent-paper, the second set, as it has been called, for the reason that it does not appear to have been certified by the assessor.

Mr. McCarter: To save trouble, I have no objection that either of these papers, both the original and supplementary consent as filed in the clerk's office of the county, or the one which your honor holds, which is taken from the archives of the township, shall go in evidence in the cause and be considered as documents in the case. Of course this is entirely without any reference to their effect.

The Court: The papers are admitted (copies of which, made from the sets filed in the township clerk's office, are appended hereto).

Plaintiff's counsel offered in evidence the bond of the commissioners of the township; also offered the several bonds declared on in evidence. 328

Plaintiff's counsel stated that the defendants' counsel might take the bonds and inspect them at his leisure, and after such inspection make any objections that he might desire to.

Defendants' counsel stated that he would take time in order to examine the bonds.

Upon each of the bonds offered in evidence was a certificate signed in the proper handwriting of Henry R. Cannon, clerk of Union county, as follows: "Registered in the county clerk's office, Henry R. Cannon, county clerk."

And thereupon EDMUND D. HALSEY, a witness called by and sworn on behalf of the plaintiff, testified as follows:

Direct examination by Mr. PITNEY:

Q. Did you see these bonds which were just shown to the witness at the time they were shown to him?

A. Yes, sir.

Q. Did you have each one in your hand?

A. Yes, sir.

Q. Did you at any time make a demand of their payment?

A. I did.

Q. Where?

329 A. At the American Exchange National Bank of New York city.

Q. When?

A. On the 6th day of June, 1879.

Q. Were they paid or not?

A. They were not paid.

Q. Either the principal or interest on coupons?

A. Neither principal nor interest.

Q. Were they or not in the same condition as now?

A. I believe they were.

Q. You had a schedule of the number of coupons attached when you made the demand?

A. Yes, sir. This schedule is in my handwriting; I prepared it before I went, and the Bank officer compared the schedule with the bonds himself and gave me a certificate; that is, a complete schedule showing every coupon attached to each bond, and we went over them to compare the bonds with the schedule, so as to identify them.

Cross-examination by Mr. McCARTER:

Q. (Handing the witness a paper.) This is a memorandum made at the time when you made the demand?

A. Yes, sir.

330 Q. And it represents the number of the bonds, giving a statement of the coupons which were then attached to the bonds?

A. Yes, sir.

Q. Do you mean attached by their original attachment, or attached by being pinned?

A. The coupons first due had been cut off and pinned fast in the same condition.

Q. Which coupons had been cut off at the time of its presentation?

A. I think that of July, 1871—those that were due July, 1871.

By the COURT:

Q. They had been previously cut off, but not paid?

A. Yes, sir. The coupons due that July I think were cut off and *and* sent down through the bank for collection and returned, and when returned pinned to the bond again. There may be two cut off in the same instances.

Further cross-examination:

Q. The one due July, '71, and Jan., '72, seemed to be cut off?

A. Yes, sir.

Q. Those two were presented to the bank? Who cut them off?

331 A. I cut them off, $2,200 of them.

Q. Which $2,200 worth did you cut off?

A. If you give me back that schedule I can tell you. (Paper handed witness.) I cannot from this, but I can from another schedule. Do you want the numbers? 101, 102, 103, 104, 105, 106, 107, 100, 109, 111, 115, 3. I am not certain about 127 and 128.

Q. What knowledge have you of the others being cut off and sent to the bank?

A. I have no knowledge of their being sent to the bank. I simply know they were in that condition when I took them down on the 6th of June, 1879.

Q. They were pinned, in the same condition, fast?

A. As they are now.

Q. How did it happen that you cut off the coupons of the ones the numbers of which you have just given us?

Question objected to, as immaterial at this point of the case. Objection overruled.

A. I had personal custody of those bonds myself in July, 1871.

Q. Were you the owner of them?

A. No, sir; not the owner of them.

Q. Who was?

332 A. That time?

Q. Yes.

Objected to, as immaterial and irrelevant. Objection overruled.

A. My father was the owner of $1,500; my sister, Cornelia Halsey, of $500; my brother, of $200.

Q. Which brother?

A. Samuel S. Halsey; and I should have added that $200 belong to the estate of Joseph Lovell. I do not know whether Mr. Lovell was dead at the time.

Q. That was in July, 1879?

A. No, sir; July, 1871, at the time they were cut off.

Q. For whom did you act in presenting them on the 6th of June, 1879?

A. Abraham Halsey.

Q. Who was he?

A. My brother.

Q. Where does he live?

A. San Francisco, California.

Q. Was he the owner of those bonds at that time?

A. Yes, sir.

Q. How do you know that?

Objected to. Objection overruled.

333 A. He was owner of $900 of them in this way: My father died in September, 1871, leaving $1,500 of these bonds as a part of his estate.

Q. Your father was who?

A. Samuel B. Halsey. I, as one of the administrators of Samuel B. Halsey, divided these bonds among the four sons and one daughter, giving each $300. Abraham Halsey was one, myself was another, and Joseph J. Halsey, of Virginia, another, and Samuel S. Halsey another, and Susan E. Beach, wife of Columbus Beach, was a sister, my other sister having $500 worth at that time. Afterwards, my sister, Mrs. Beach, myself, and my brother in California bought the $300 which belonged to my brother, Samuel S. Halsey; that gave each of us $400. Afterwards Abraham Halsey, my brother in California, bought $300 which belonged to my brother in Virginia.

Q. That is Joseph?

A. Yes, sir. He afterwards bought $200 worth which belonged to my brother, Sam. S. Halsey.

Q. That is $900?

334 A. And then the rest of us assigned these bonds to my brother, A. Halsey, and Mr. Marsh.

(Interrupted.)

Mr. Pitney: Never mind that. You were not asked about that.

Witness: He bought the rest of those bonds that I have just given you.

Q. Was the assignment of those bonds which the rest of you made to your brother in writing?

A. The bonds were assigned by delivery, but there was a writing.

Q. Was that writing only respecting the bonds of your father's estate, or did it relate to other bonds in suit in this case?

A. It related to all the bonds in suit in this case, excepting the $900, which had previously belonged to my brother absolutely.

Q. Belonged to Abraham in his own right?

A. Yes, sir.

Q. Where is that writing?

A. Mr. Pitney has it.

Defendants' Counsel (to plaintiff's counsel): Will you produce it?

Plaintiff's Counsel: Not at this time, unless the court orders it, because I think it is an improper mode of trying the cause.

The Court: I think we have gone far enough in this di-
335 rection. We are getting at a side issue in this case.

And thereupon the plaintiff rested his cause.

And thereupon the defendants' counsel, in support of the issue on their part, recalled the said Edmund D. Halsey, who further testified as follows:

Direct examination by Mr. McCarter:

Q. You stated when you were on the stand before that a writing was given in connection with the assignment of a portion of the bonds in suit to Abraham Halsey, the plaintiff. Can you produce that writing?

A. Mr. Pitney has it.

Mr. McCarter: Will you produce it, Mr. Pitney?

Mr. Pitney: Yes. You have not given me any notice to produce it, but I shall not decline on that account (producing paper).

Mr. McCarter: I never knew there was a writing before this witness so stated.

Q. (Handing witness the paper.) Is that the paper to which you refer?

A. Yes, sir.

336 Q. I see it is signed by yourself as attorney of Abraham
Halsey. You represented him in that part of the obligation which he signed?

A. Yes, sir; I believe they were all signed in my presence, two of the signatures and my own three signatures in fact, two as attorney.

Defendant's counsel offered the assignment in evidence.

Objected to as immaterial and irrelevant under the opening of counsel.

Objection overruled.

Plaintiff's counsel prayed an exception. (Assignment dated May 6th, 1879, read in evidence, a copy of which is hereto appended.)

Q. Is that the agreement under which those bonds were taken by Abraham Halsey?

A. Yes, sir.

Q. Who made that agreement on behalf of plaintiff?

A. I did.

Q. In his presence?

A. No, sir.

Q. Where was he?

A. In California.

Q. And you were where?

337 A. Here in New Jersey.

Q. In Morristown?

A. Yes, sir.

Q. Was it made in pursuance of a previous arrangement with him?

A. Yes, sir.

Q. Had he been advised before this was made of the nature and terms of it?

A. Yes, sir.

Q. Has Abraham Halsey ever had the bonds in his actual possession?

A. No, sir.

Q. Where have they been?

A. In my possession.

Q. And the possession of your counsel?

A. They were in my possession up to the commencement of this suit.

Q. In your own personal possession?

A. Yes, sir. Custody you mean by that, I suppose?

Q. Yes.

A. Yes, sir.

Q. I see you signed E. D. Halsey for $400 as your own?

A. Yes, sir.

Q. And William Radford, executor, and Mary Radford, executrix, by E. D. Halsey.

A. Yes, sir.

388 Q. Were those bonds, any of them, and which of them, if any, inyour possession at the time this instrument was signed?

A. The bonds, of which I gave the numbers this morning, have been in my continuous possession from 1869 up to the commencement of this suit.

Q. The bonds of which you gave the numbers this morning?

A. Yes, sir.

By Mr. Pitney:

Q. Those which belonged to your father's estate?

A. Yes, sir.

Further cross:

Q. When did you get H. O. Marsh's?

A. Just about the time that paper was written.

Q. When did you get Mrs. Beach's and your sister Cornelia's?

A. Those are part of the numbers I gave this morning.

Q. When did you get Edwin Ford's?

A. At the time that I got Mr. Marsh's.

Q. When Charles S. Ogden's?

A. At the same time.

Q. Did you get the Radford bonds at the same time?

A. No, sir.

Q. When did you get Mr. Baldwin's?

339 A. The same time that I got Mr. Marsh's; about the same time.

Q. And Caroline Schofield's?

A. About the same time.

Q. Then, with the exception of H. O. Marsh's, E. Ford's, Charles Ogden's, Mr. Baldwin's, and Caroline Schofield's, James Jackson's, all these bonds were in your possession when this contract was made?

A. Yes, sir.

Q. And no change took place in the possession?

A. Custody of them? No, sir. At the time this suit was brought, or about that time, the bonds were put together and kept in the iron bank safe; Mr. Marsh holding the key.

Q. But they were legally in your custody?

A. Yes, sir.

Q. They were put there for safe keeping only?

A. Yes, sir; that is all.

Q. Who advised you to get up this arrangement?

A. I suppose I had as much to do with it as any one, as I wanted the money on my bond.

Q. What was the object of putting these bonds [in] your brother's hands?

A. To get the money.

340 Mr. Pitney: The paper shows for itself and states the object very fully; and the witness has already stated that his brother was the absolute owner long before of $900 worth of those very bonds sued upon *upon* a partition of his father's estate, and by transfer. The object is stated on the face of the paper, and I respectfully submit that counsel cannot contradict the paper he has himself put in evidence.

Mr. McCarter: I expect to show by this witness that one of the objects of this arrangement was to enable suit to be brought in the Federal court for the recovery of those bonds.

The Court: Well, go on, sir.

Plaintiff's Counsel: Your honor will allow me an objection and an exception?

The Court: Yes, sir.

Q. Will you state what all the objects of these proceedings were?

A. To bring suit.

Q. Why was Abraham Halsey selected in whose name suit was to be brought?

Mr. Pitney: Your honor will allow me an objection and an exception?

The Court: Certainly.

341 A. Abraham Halsey owned $900 worth before this assignment was made, and proposed to bring suit upon them in accordance with the terms of that paper.

Q. In order that suit might be brought by him?

A. A suit would have been brought by him anyway.

Q. Upon his own?

A. Upon his own undoubtedly.

Q. He had but $900 worth?

A. He had $900 at first.

Q. Were they not put in his hands in order to qualify him to sue on them in the Federal court?

A. No, sir.

Objected to, as leading.

The Court: The witness has already answered.

Witness: No, sir; they were not; because he already owned enough to bring suit in the United States court.

Q. Had he any interest in the others?

A. Not before——

Q. (Interrupting.) Before this assignment was made?

A. No, sir.

Q. And he resided in California?

342 A. Yes, sir; and has resided there since 1851; and has never been in New Jersey but once since '51.

Q. When was that?

A. He arrived in December, 1870, and left in March, 1871.

Q. That was long before the date of this instrument?

A. Yes, sir.

Q. Has he ever seen it?

A. Yes, sir; he has seen a copy of it.

Q. How do you know?

A. Because I sent him a copy before it was executed; I asked him if he approved of it to sign the copy and send it back to me, and he did so, as my authority to sign his name to this one.

Q. Then it was by your suggestion that he signed this one?

A. We consulted together.

Q. You had negotiated and made this arrangement before you sent the paper to him?

A. We had talked about it.

Q. And you had prepared a copy of this instrument?

A. Yes, sir.

343 Q. And you sent it out to him to get his consent to have it signed in his name?

A. I thought the best way for him to authorize me to sign that paper would be for him to read over exactly what I was to sign, and if it suited him to sign it and send it back to me.

Q. Prior to that had he known anything about it?

A. I think he did.

Q. In what way?

A. By my letters to him; I had charge of other business of his.

Q. Did he pay anything for those bonds?

A. Yes, sir.

Q. Did he pay anything as a consideration for the purchase of the other bonds that were transferred to him by the assignment?

Mr. Pitney: The paper shows for itself.

Mr. McCarter: Do you admit he did not pay anything?

Mr. Pitney: Of course we do; the paper says he did not.

Q. That is all, Mr. Halsey.

Cross-examination by Mr. PITNEY:

344 Q. I need hardly ask you whether your brother derived any benefit from this by reason of his having the expenses of this suit partly born- by by other people?

A. Of course he did.

Q. Was that a consideration for his going into the arrangement?

Objected to. Objection withdrawn.

A. Yes, sir.

Q. The amount of $900 which your brother had, was it or not an amount so small as to make the expenses of carrying a suit through against this township very onerous against him?

A. Yes, sir.

Q. You were counsel for your brother?

A. Yes, sir.

Q. And had charge of his affairs here?

A. Yes, sir.

Q. And other monies?

A. Yes, sir.

Q. And you were also counsel for the estate of Joseph Lovell?

A. Yes, sir.

Q. Who had some of these bonds?

A. Yes, sir; these bonds were in my possession and have been ever since Mr. Lovell went to Washington.

Q. You both knew the fact that Mr. Marsh had some bonds?

A. Yes, sir.

345 Q. You were on intimate terms with Mr. Marsh?

A. Yes, sir.

Q. You just now stated that there were $900 of those bonds that passed to him two years ago?

A. Yes, sir.

Q. And then there were several hundred more which passed to him as trustee by virtue of this agreement, to wit, your own of $400 and your sister Cornelia- $500 and your sister Susan's $400; those came from your father and brother?

A. Yes, sir.

Q. Most of them from your father in his lifetime?

A. Yes, sir; $2,000 of them.

Q. Do you know what your father paid for those?

A. $1,700 in cash.

By Mr. McCARTER:

Q. Do you know of your own knowledge?

A. Yes, sir; I paid the money.

Further cross-examination:

Q. Have you the check he paid for it?

A. Yes, sir.

Objected to as not proper evidence.

346 The COURT: I do not think that is strictly cross-examination, but I shall allow the proof in this case.

Mr. PITNEY: If your honor does not think it proper, I would rather prove it in some other way.

By the COURT:

Q. You say $2,000 came from your father?
A. Yes, sir.

Further cross:

Q. And Mr. Lovell how much?
A. It was only $200 that is in this suit; there were $800 more.
Q. The Radfords are his daughter and his son-in-law?
A. Yes, sir.
Q. Admiral Radford?
A. Yes, sir.
Q. Living at Washington?
A. Yes, sir.
Q. The rest of these bonds, you don't know where they got these from?
A. No, sir; I say $2,000 of the bonds came from my father's estate, but he gave $500 of them to my sister Cornelia in his lifetime, and $1,500 only were taken after his death.

347 And thereupon BEVERLY C. SANDERS, a witness called by and sworn on behalf of the defendants, testified as follows:

Direct examination by Mr. McCARTER:

Q. Were you formerly officially connected with the Passaic Valley and Peapack railroad?
A. With the West Line road.
Q. The New Jersey West Line road?
A. The New Jersey West Line road.
Q. Its former name was the Passaic Valley and Peapack railroad?
A. Yes, sir.
Q. In what capacity were you connected with it?
A. I was secretary of the company.
Q. Did you have any personal or official action to take with reference to the issuing of the bonds of the township that were issued in aid of the road?
A. No, sir; no personal—not on my part.
Q. Did you keep any record or any account of the dates of the issuing of those bonds?
A. I went to the clerk's office at Elizabeth—the clerk of Union county—and made a record of those that were issued and took off the coupons that had expired. I believe that is all I had to do with it.

348 Q. (Handing witness a book.) Look at that book, please.
A. That is my writing, sir.
Q. You had no personal knowledge of the facts of the issuing of bonds to the defendants by being concerned officially with them?
A. No, sir. That is a record I kept of what it shows, sir.

Mr. McCarter: I was in error in calling Mr. Sanders. He does not seem to know what I supposed he did. Counsel may cross-examine.

Cross-examination by Mr. Pitney:

Q. Do you say you went and got the bonds, or got them registered?

A. I got them registered. I think a record is in the office. If I did my memory in regard to that is very treacherous.

Q. See if Mr. Cannon registered them? I forgot about that matter before.

Objected to, as not cross-examination.

By the Court:

Q. Do you mean that you took to the clerk's office the bonds that the company got?

A. These bonds (indicating the bonds offered in evidence)?

Further cross-examination:

349 Q. I want to ask you if that is what you refer to—getting Mr. Cannon's signature to these bonds?

A. Yes, sir.

Q. Is that what you referred to when you say you got them from the clerk's office?

A. Yes, sir.

Redirect examination:

Q. What did you get from the clerk's office?

A. I got the bonds and disposed of them, as that book proves.

Q. You got them.

A. I think I did, but my memory is treacherous about it.

Q. Where did you get them?

A. Well, that is what I cannot remember. A necessary preliminary was to have the bonds registered at the clerk's office, I think, and I either found them there or took them there and had them registered and brought them away.

Q. How did you get them—you were secretary of the railroad company?

A. Yes, sir.

Q. You had no connection with the issuing of the bonds by the commissioners?

A. None at all.

350 Q. Then had the bonds been issued when you took them there?

A. They must have been or they could not have been in my possession.

Q. When you had them did you hold them for the railroad?

A. I could not have held them for any one but the company. I was acting as their agent. It must have been in that capacity.

Q. They had been issued, then, before they actually came into your possession?

(Objected to, as leading.)

A. It might have been preparatory to the issuing.
Q. How did the railroad have anything to do with the preparatory steps to their issue?
A. That I cannot remember, but that I did do that I have no doubt.
Q. Did do what?
A. Went to the clerk's office.
Q. What did you do when you got there?
A. Took the bonds, and some of the coupons were past due, and they were cut off and cancelled, and every one of them is written out in the book at the clerk's office now; the coupons that were
351 taken off and cancelled and the numbers that were left on.
Q. At the time that was done some of the coupons had passed their date of payment?
A. Yes, sir.
Q. And they were cut off?
A. Yes, sir.
Q. That is the condition in which they were if you did take them to the office—if they were taken?
A. Yes, sir; the object, I am positive, however, was to have them registered by the clerk and cancel the coupons that were past maturity.
Q. Can you tell us how it came they were in your possession?
A. That I cannot tell.
Q. Can you tell what became of them after that?
A. Does not that book prove it?
Q. I don't know. I want you to prove it.
A. I had forgotten the existence of the book, but it seems to be a record of the disposition of the bonds.
Q. (Handing witness a book.) Now, please look at the book. Here are two books I will show you.
A. (Witness examined books.) There is a memorandum
352 on the first leaf of this book which is in my handwriting and signed by me, by which it appears that I delivered certain bonds. I do not know as that is pertinent to the subject at all. It only proves that thing—that I delivered the bond named in this memorandum to the treasurer, Mr. Jarvis Johnson.
Q. Was Mr. Jarvis Johnson treasurer of the railroad company?
A. Yes, sir.
Q. Now, after inspecting that book, can you tell me what it is?
A. No, sir; Mr. Jarvis Johnson was not treasurer at the time that I wrote this record.

Mr. PITNEY: He was commissioner still?

A. Yes, sir; commissioner, Mr. Daniel D. Craig was treasurer of the company.

Further direct:

Q. What I wanted to know was—

A. (Interrupting.) You wanted to know, if you will excuse me, what disposition I made of them.

Q. After you got the bonds, what did you do with them?

A. I delivered them in accordance with the record here before me.

Q. Did you make that record in your own handwriting?

353 A. I made that record and it is true.

Mr. Pitney: Let us see it.

A. Yes, sir. There (indicating book) is the memorandum which I made.

Further direct:

Q. Tell us now if you please of what fact that book contains, the record of what circumstance in connection with these bonds—just return to the beginning if you please, and see what that book contains a record of?

A. (Reading.) Record of township bonds issued to and received by the Passaic Valley and Peapack Railroad (witness read from book); that was before the name was changed. Here (indicating) is the number of the bond and the date of the bond by what township issued, and the denomination of the bond when it was received, and by whom it was received.

Q. When did you receive—

A. (Interrupting.) I will read off the first one.

Objected to as irrelevant and incompetent and plaintiff's counsel stated he would like defendants' counsel to state what he expected to prove.

Defendants' Counsel: I expect to prove by this witness

354 that he kept a record of the issuing of these bonds and can tell when each one was issued and to whom it was issued.

Q. The first bond I will ask you about is No. 3.

A. No. 3 was dated January 1st, 1869, for $1,000, and received January 22nd; I presume that is the time of payment of the installments, received by the company may be, and delivered to and received by Daniel D. Craig, treasurer of the company—that is No. 3.

Q. Allow me to look over your shoulder a moment on that, sir.

A. Yes, sir.

Q. What is that date?

A. Jan. 1st is the date of the bond.

Q. The date of the receipt?

A. Jan. 22nd, '69.

Q. No. 6?

A. $1,000, No. 6 was dated Jan. 1st, and received Jan. 16th, and the same disposition made of it to Daniel D. Craig, treasurer.

Q. No. 7?

A. The same date and disposed of the same way.

Q. The same amount?

A. The same amount.

Q. No. 8?

A. The same.

355 Q. Now look at bond No. 46.

A. No. 46, dated Jan. 1st; received Jan. 22nd; to D. D. Craig, treasurer. That is for $500.

Q. No. 48.

A. No. 48 for $500; same date. That was the second installment.

Q. What was done with that?

A. To Mr. Craig.

Q. Is that Jan. or July?

A. July 16th—I beg your pardon—1869.

Q. No. 46 was July also, was it not?

A. No, sir.

Q. That was Jan., was it?

A. Yes, sir; 46 was Jan., for $500.

Q. Then 48 was July?

A. 48 was July 16th.

Q. No. 49.

A. Same date, July 16th.

Q. What amount?

A. $500.

Q. And delivered to whom?

A. D. D. Craig, treasurer.

Q. No. 50.

A. July 16th, $500, to D. D. Craig, treasurer.

Q. No. 57.

A. The same.

Q. Same amount and the same time?

356 A. Yes, sir; all the same and delivered to the same party.

Q. No. 101.

A. Dated Jan. 22d, '69, for $100, to Mr. Craig.

Q. No. 102.

A. All the same.

Q. No. 103.

A. The same thing.

Q. No. 104.

A. The same thing.

Q. 105.

A. The same thing.

Q. No. 106.

A. The same thing.

Q. No. 107.

A. The same thing.

Q. No. 108.

A. The same thing.

Q. No. 109.

A. The same thing.

Q. No. 110.

A. The same thing.

Q. No. 111.
A. The same thing.
Q. No. 115.
A. The same thing.
Q. No. 122.
A. $100, July 16th, to Mr. Craig.
Q. Treasurer?
357 A. Treasurer.
Q. No. 123.
A. For $100, July 16th, to Mr. Craig.
Q. No. 124.
A. For $100, July 16th, 1869, to Daniel D. Craig.
Q. No. 127.
A. The same.
Q. No. 128.
A. The same.
Q. Who delivered those bonds numbered and recorded to Mr. Craig?
A. Well, I do not know who delivered them to him unless it was myself.
Q. You had them in your hands.
A. I had them in my possession; those are the bonds I took to the clerk's office in Elizabeth to have them recorded and registered.
Q. And after that you obtained possession of them?
A. I took them from the office after cutting off the coupons—cancelling them.
Q. Does that record show what had been cancelled at that time?
A. Yes, sir.
Q. Then the number of coupons cancelled shows the number that had passed their maturity?
358 A. Yes, sir. I don't know; there could not have been so many between Jan. 1st and Jan. 22nd. I think the cancelled coupons are now filed away in that office if my memory serves me right.
Q. What office?
A. The clerk's office.
Q. Who gave them to you?
A. I do not remember, sir. These commissioners, I suppose, must have given them to me.
Q. Do you recollect how they came into your possession?
A. I really do not. I had this record and that is what this record shows, and whatever this record shows I know to be true.
Q. You don't remember how you got them?
A. Well, I cannot call it to memory now. There might be something to refresh my memory. I had forgotten the existence of this book too. Now I see it was a book made by myself.
Q. Gotten up by you, was it not?
A. Yes, sir.
Q. For what purpose?
A. For the purpose of registering every bond that was disposed of.

359 Q. Can you tell how they came into the hands of the company to be disposed of?

A. No, sir; I cannot at the moment. It has passed out of my mind.

Recross-examination:

Q. Did you undertake to aid the three commissioners, Messrs. Jarvis Johnson, Jonathan Bonnell, and John Littel, in the clerical work of getting these signatures?

A. No, sir; I went up to Springfield Township to give some aid and advice to the commissioners there, but I don't think I ever had any thing to do with the New Providence people. If I did I have forgotten it. I remember going to Springfield.

Q. Did you not aid Mr. Johnson and Mr. Littel and Mr. Bunnell in the clerical work of getting up the consents?

A. What is that?

Q. I mean the consent papers.

A. If that (indicating) is one of the consent papers, I must have aided in it, because there is my handwriting.

Q. I also show you the first one.

A. I wrote it.

Q. Look through it and see if any of the body is in your handwriting; the affidavits, such as is not in print?

360 A. Yes, sir; it is all my handwriting, except the printing and the figures; I had forgotten about it.

Q. Did not you by the direction of the railroad company assist the commissioners in their clerical and mechanical work?

A. That is the proof of it that I did.

Q. Did you not then at the request of the commissioners take the bonds to the clerk and have them registered?

A. I did either at the request of the commissioners or of the railroad company, I cannot tell which.

Q. Somebody had to pay for it, didn't they?

A. Yes, sir.

Q. Did you not furnish the funds from the company to pay for it, and was not that the reason you took them down for the commissioners; did not one of the commissioners go with you?

A. No, sir.

Q. Did not Mr. Johnson go with you at the time?

A. I don't think Mr. Johnson ever went with me; I only went twice, I think.

Q. Were you not, in doing what you did, there acting for the commissioners, doing their work and being paid by the railroad company of course?

361 A. Of course I was in the pay of the railroad company.

Q. And were you not doing the work for the commissioners?

A. I cannot say whether it was for the sake of the commissioners or the company. The company were anxious of course to get the township bonded, and I being the secretary then—

Q. (Interrupting.) Yes; you did it?

A. I did do that.

Q. And got your pay from the company?

A. Yes, sir.

Q. Did you not simply make a record of this for the purpose of knowing what bonds were issued and what became of them?

A. Yes, sir; that was the object.

Q. Were the bonds under your control in any way?

A. No, sir.

Q. Were they not simply handed to you to do the clerical work on them?

A. I had no control over the bonds.

Q. And do you mean to say that they were under the control of Mr. Craig?

A. Yes; judging from this record.

Q. Where is there anything in that that makes you think they were in Mr. Craig's possession?

362 The COURT: He refers to this book I have.

A. They are both alike.

Q. You stated that perhaps 6, 7, and 8 were delivered on the twelfth of January, '69. Were you not mistaken and was it not July the 16th?

A. Some were January and some were July.

Q. Take 6, 7, and 8.

A. Is that in New Providence?

Q. Yes, sir.

A. It is in July, sir; I read January for July.

Q. Were they not part of the second installment.

A. I cannot tell.

Q. (Handing witness book.) Look here (indicating).

A. I see that this (indicating) appears to be the first installment and that the second.

Q. Where is there anything in this to show that they went to Mr. Craig?

A. It says D. D. Craig, treasurer.

Q. And by him received?

A. Yes, sir.

Q. Then Mr. Craig received them? That is all.

Further direct examination:

Q. Had not these bonds been delivered to the railroad company by the commissioners before they came into your hands?

363 A. Well, if they were delivered to the company, they were delivered to the treasurer and by him to me to have them—

Q. (Interrupted.) The point I want to get at is whether they had not been delivered to the treasurer of the company before you took them to the clerk's office?

A. I cannot say positively, sir. By the wording of this book, Mr. McCarter, it would seem they were received by the treasurer, as I see here "by whom received" and under that heading is D. D. Craig, treasurer. Now, Mr. Craig could have received those bonds and handed them to me with the request that I go and have them recorded, but I do not remember.

Q. (Handing witness a paper.) See if that refreshes your memory any? (Witness examined paper.)

A. Yes, sir; this accounts for the manner in which this book is kept. They were received by the treasurer.

Q. Delivered to him by the commissioners?

A. Delivered to him by the commissioners and by him delivered to me to have them registered and the coupons attached to be detached.

364 Q. (Handing witness a paper.) Look at this and *and* see if this helps you any?

A. Are not these the identical bonds embraced in the receipt I read just now by the treasurer—that is my receipt—that is a receipt of the treasurer by me, by the secretary.

Q. Yes. That is for how much?

A. $8,200.

Q. And that is dated January 21st?

A. Yes, sir.

Q. And for $8,500, July the 16th?

A. That was the second installment. This is the first installment and seems to be a receipt written by me and signed by me for the treasurer.

PLAINTIFF'S COUNSEL: What do you want to prove?

DEFENDANT'S COUNSEL: That these bonds were issued and for what.

PLAINTIFF'S COUNSEL: Your honor will permit me to be considered as objecting to all this evidence as immaterial and irrelevant and not binding on the plaintiff.

The COURT: Your objection may be noted.

PLAINTIFF'S COUNSEL: And I pray an exception.

The COURT: Certainly.

WITNESS: This paper is a receipt for the commissioners of the township for 10 per cent. of the bond called for under a resolution of the board of directors. The bonds are recited and the amounts; signed by me for the treasurer. 365

Q. Did you receive the bonds?

A. I received the bonds as stated in that receipt.

Q. As stated in that receipt for the treasurer.

A. They are here (referring to book), I suppose, set forth in this book. This is the first installment and these are the bonds from 1 to 4, inclusive, for $1,000 each; and from 41 to 46, six bonds of $500 each; 101 to 115, fifteen bonds, all $100 each; this first installment received January 22nd, issued on the 22nd of January, 1869, and received by the treasurer.

Q. That was the first installment?

A. Yes, sir.

Q. (Handing witness a paper.) This receipt signed by Mr. Craig which I have just shown you, that is for the second installment?

A. That is for the second.

Q. Now, seeing these receipts, can you tell on what account the company received them?

A. On account of a subscription of the railroad company, I mean of the township to the railroad company.

366 Q. The stock of the railroad company?

A. Yes, sir.

By Mr. Pitney:

Q. Speak a little louder. Do you say on account of the subscription of the township to the railroad company's stock?

A. Yes, sir.

Further direct:

Q. You were shown the consents and the papers preparatory to the signatures of the land owners for bonding the township, and you said they were in your handwriting?

A. Yes, sir.

Q. (Handing witness a paper.) Here seems to be a supplemental or second consent that has been put in evidence by the plaintiff. See if you had anything to do with them?

A. I did not write this paper; but I wrote this, "The above signatures were severally affixed by the parties;" the certificate by the commissioners, I wrote that.

Q. Then you had to do with the getting up of that paper also, did you not?

A. It appears so, sir; and it had passed out of my memory.

Q. Can you tell how it came about that the second paper was procured?

367 Objected to as immaterial and irrelevant and not binding on the plaintiff.

Objection overruled.

Exception prayed and allowed.

A. If my memory serves me right, this paper was gotten up in order to complete the work of bonding the township supplementary.

Q. What do you mean by completing the work?

A. I mean it is supplemental to the first consent, which was not supposed to be sufficient. That is what I mean.

Q. Insufficient in what respect?

A. In the number and amount in the first; either in the number and amount or in the number of signatures. It might have been only the number of signatures, but I don't know.

Q. It was to supply one or the other of those defects?

A. I think so.

Further recross:

Q. (Handing witness a book, marked "Certificate of Stock, Passaic Valley and Peapack Railroad Company,") What is this book?

A. It is the certificate book; the stock book.

Q. Book containing certificates of stock of what?

A. Passaic Valley and Peapack Railroad Company.

368 Q. Look at certificate No. 31 and tell me what it is?

A. No. 31 certifies that the township of New Providence, N. J., is entitled to 1,700 shares of the stock of the Passaic Valley and Peapack Railroad Company.

Q. Has that ever been cut out?

A. It was the habit to cut them out, and if they were brought back they were pasted in.

Q. See whose receipt that is for the certificate?

A. Jarvis Johnson, commissioner of New Providence township.

Q. Dated the 11th of January, 1870?

A. Yes, sir; 10th of January, 1870, issued.

Q. What does this (indicating) across the face of it mean?

A. (Reading) "Cancelled, and certificate No. 14, N. J. West Line Railroad Company issued in exchange on May 7th, 1870."

Q. Why was that done?

A. I do not know why it was done, unless it was that the name of the railroad company had been changed.

Q. Was that not a fact that the name of the railroad company was changed and new certificates got out?

A. The name of the railroad company was changed to the
369 West Line.

Q. And new certificates got out?

A. Yes, sir.

Q. And given to the parties instead of these?

A. Yes, sir.

Q. That to the township of Bernards was issued at the same time, was it not? The question is, whether that was not once out and delivered to Mr. Jarvis Johnson, one of the commissioners? I want to know whether or not that was not regularly delivered to Mr. Johnson?

A. It appears so from his receipt.

Q. Well, in point of fact, whether it was not out of your possession?

A. Yes, sir.

Q. And brought back and the certificate of the new corporation issued in its place?

A. Yes, sir; there (indicating) is where I cancelled it, and certificate No. 14 of the New Jersey West Line Rail Road Company was issued in its place.

Q. (Handing witness a book): See if you know what this is; it is marked "New Jersey West Line Rail Road Ledger."

A. No, sir; I never saw it before that I know of.

370 PLAINTIFF'S COUNSEL: If the court please this may not perhaps be in order, but I do this so as to allow the witness to get away as soon as I can, as he is very anxious to do so.

DEFENDANTS' COUNSEL: I shall be very glad to co-operate with counsel to allow the witness to get away.

Q. (Handing witness book): See whether the book I now show you, called "blotter," is the original entry book of the stock of the township of New Providence.

A. (Witness examined the book.)

Q. Is any of that in your handwriting?

A. Yes, sir.

Q. Is or is not that the original stock ledger of the Passaic Valley and Peapack Rail Road Company?

A. It says: "List of the subscribers to the stock of the Passaic Valley and Peapack Rail road." That is so; it is, sir, in my own handwriting, some of it.

By Mr. Pitney:

Q. What is that?

A. The list of stockholders and subscribers to the Passaic Valley and Peapack Rail Road Company.

Further recross.:

371 Q. (Handing witness a book): I will show you this, and ask you whether or not that is one of the books of subscription to the Passaic Valley and Peapack Rail Road Company?

A. That is the subscription book.

Q. (Handing witness another book): See if this is not another one also. Look at the last pages, and see whether or not there is a subscription there by the township of New Providence by their commissioners.

A. (Reading): "Township of New Providence by their commissioners, Jarvis Johnson, Johnathan Bunnell, and John Littell, 1,700 shares."

Q. In whose handwriting is the first part of it?

A. That is mine.

Q. And "1,700."

A. That is mine.

Q. Whose handwriting is Jarvis Johnson?

A. Jarvis Johnson's.

Q. And Johnathan Bunnell's?

A. Bunnell's.

Q. And John Little's?

A. Well, I presume they are their signatures.

Q. Were they not signed in your presence?

A. I presume so, but I do not remember it.

Q. You wrote right below them?

A. Yes, sir; and there is the commissioner of the township of Springfield.

Q. And above that there are a large number of subscribers 372 to the stock?

A. Yes, sir; that is a part of the subscription list.

Q. And this (referring to the book) is Schomp, and this (again referring) is the commissioners of Bedminster?

A. Yes, sir.

Further redirect examination:

Q. Are you acquainted with the handwriting of John Littell and Johnathan Bunnell?

A. I have seen their handwriting; I would not swear to it.

Q. Are you sufficiently acquainted with it to identify and recognize it when you see it?

A. It is my firm belief that the signatures I have just looked at in that book are theirs.

Q. But you know their handwriting so as to recognize it by looking at it?

A. I could swear to Mr. Johnson's handwriting because I have seen him write his name often in my presence at the same desk.

Q. But the others?

A. The others I would not like to swear to.

Mr. Pitney: I will ask the witness to go all over these bonds.

373 Witness: I could not identify them any better than I could in that book.

By Mr. Pitney:

Q. You know Johnson's very well?

A. Yes, sir; I have seen him writing his name very often, and this (referring to the bond) is his handwriting.

Q. You have no very distinct recollection of their subscribing to that stock in your presence?

A. It was done in my presence, but I would not like to swear to it.

The defendants' counsel offered in evidence the two receipts.

Objected to, on the ground that they were irrelevant and not binding on the plaintiff.

The Court: I shall admit them subject to their being ruled out by-and-by, if necessary.

Plaintiff's counsel prayed an exception, and the same was allowed.

First receipt offered, dated January 22nd, 1869, being for $8,500 of bonds; second receipt offered, dated October 22d, 1869, being for $8,500 of bonds; (copies of which receipts are hereto appended.)

374 Jarvis Johnson, a witness called by and sworn on behalf of the defendants, testified as follows:

Direct examination by Mr. McCarter:

Q. Did you act as one of the commissioners of the Township of New Providence?

A. I did, sir.

Q. In obtaining consents to the issuing of the bonds of the Township?

A. Yes, sir.

Q. (Handing witness a paper.) Look at this document, which is the first set of consents of land-owners and tax-payers to the bonding of New Providence Township, and see if you recognize it?

A. (The witness examined paper.) Yes, sir.

Q. Did you take part in procuring signatures to that?

A. Yes, sir.

Q. (Handing witness another paper.) Now look at the second consent.

A. (Witness examined paper.) I recognize that.

Q. Did you take part in procuring signatures to that?

A. Yes, sir.

Q. Why was that second consent obtained?

Mr. Pitney: The court will allow me that same objection, with an exception.

The Court: It is taken subject to your objection.

375 A. Shall I state the proceedings in full?

Q. Yes.

A. I was also a director of the railroad company and treasurer, and at a meeting of the board of directors the question came up as to the legality of bonding the township, and by a vote of the directors, as far as I can recollect, Messrs. Parker and Keasby were employed on the part of the company to investigate this matter of bonding the township, and see if we had done it in a legal manner, and I think the company paid them some $600 for their services and they reported. This is my mere memory. I have no documents before me.

Mr. Pitney: If it was in writing we ought to have the writing.

A. It was a transaction of the board, and the record is undoubtedly in the secretary's book. You wish me to tell you why it was we came to obtain the additional consent?

Q. Yes.

A. As I was saying, Messrs. Parker and Keasby reported everything was right in their opinion in reference to bonding the
376 township, excepting it would be better to have a majority of the voters or non-taxpayers as well as the landed property owners to sign the consent to bond, and that was the cause of the supplementary addition.

Q. Did you mean the non-taxpayers or the non-land owners?

A. The non-land owners.

By Mr. Pitney:

Q. A majority of the votes he said.

Witness: The idea was to have a majority of all.

By the Court:

Q. What did you say?

A. To have a majority of non-land owners as well as land owners.

Further direct:

Q. Taxpayers?

A. Yes, sir; and that was the occasion of this.

Q. Who took a part on getting this up?

A. I did myself.

Q. And who else?

A. I do not know. I cannot recollect. I obtained, I think, all the signatures. I recollect being present at the election of the town—being present at the poll-room—and procuring those names as they went up to vote.

Q. Do you know how many bonds had been issued when that was done?

377 A. I see the date of this is the 9th of April, the date of the spring election.

By the COURT:

Q. 1869?

A. 1868 this is, but it should be 1869, I think.

Further direct:

Q. That is the date of the charter?

A. Yes, sir.

Q. And the date of the act under which you proceeded?

A. The 12th of April, and the bonds were issued from early in the year '69; whatever bonds were issued prior to that date the record shows what they were.

Q. How many bonds were issued altogether?

A. To New Providence township?

Q. Yes, sir.

A. 1,700 shares of stock were taken for $85,000 in bonds.

Q. Can you tell when the last bonds were issued?

A. I cannot from memory.

Q. To whom were the last ones issued?

A. They were paid over to the engineer of the company.

Q. The engineer of what company?

A. The railroad company—Mr. Bassinger.

Q. J. B. Bassinger, general manager?

A. Yes, sir.

Q. State under what circumstances.

378 Objected to as immaterial and irrelevant.
Objection sustained.

Q. To whom were the bonds issued first?

A. To Mr. Craig, treasurer.

Q. By the commissioners?

A. By the commissioners.

Cross-examination by Mr. PITNEY:

Q. You subscribed to the stock of the railroad company, did you not?

A. Yes, sir.

Q. (Handing witness a book.) That (indicating) subscription was made by yourself, and Mr. Littell, and Mr. Bunnell, the other commissioners?

A. Yes, sir.

Q. You took the certificate of stock which has been shown here, No. 31, (handing same to witness.) Did the commissioners ever have that in their possession?

A. Yes, sir.

Q. No. 31 of this work now shown you?

A. Yes, sir.

Q. That was delivered back and and a new certificate in the West Line given you?

A. Yes, sir.

Q. Where is that?

A. It is in my possession.

Q. For $85,000?

A. Yes, sir.

379 Q. Have you it here?

A. No, sir.

Q. The road was built, was it not?

A. Built through New Providence township.

Mr. McCarter: This is not cross-examination.

Adjourned until Wednesday, May 25th, 1881, at 10 o'clock, a. m.

Jarvis Johnson. Cross-examination resumed by Mr. Pitney:

(The last two answers and questions in the testimony of this witness were read by the stenographer.)

Q. And has been in operation ever since?

A. Since what time?

Q. Since it was finished up to that point.

A. I think so.

Q. In 1870 or 1871, somewhere along there, it was finished, was it not?

A. Yes, sir.

Q. You spoke about getting some consents to a second consent-paper that was shown you?

A. Yes, sir.

Q. Please speak so that the jury can hear you. That was got at the spring election of 1869?

A. Yes, on the 9th of April, I think.

380 Q. The day that the town meeting was held?

A. Yes, sir.

Q. And you did not get the assesssor's affidavit to it until later in the season—the fall?

A. I did not obtain the assessor's signature to that paper. Some other parties did. I do not know when it was obtained.

Q. At the time, however, that the signatures were made to the paper. Mr. Wilcox was assessor?

A. I could not say. I do not remember who was the assessor at that time.

Q. The names on the second paper, added to those on the first paper, did make a majority of the voters of the township, did they not?

A. I could not tell that.

Q. Did you not ascertain that at the time?

A. No, sir; the papers we taken from me after the signatures were obtained by some one, taken to the assessor, I suppose, who was the proper party to determine that matter. I did not know myself.

Q. You do not know anything about what the defects in the first paper were of your own knowledge?

A. No, sir.

381 Q. You only understood that out of abundant caution Messrs. Parker and Keasly advised getting some more names?

A. Yes, sir.

Q. You did not stop the work on the road, and did not stop the issuing of your bonds on account of it, did you?

A. No, sir; I think not.

Q. The commissioners had already determined, had they not, upon the first consent-papers being filed to issue the bonds?

A. Well, we thought that was sufficient until Messrs. Keasly and Parker——

Q. (Interrupting.) But had you not?

Mr. McCarter: Let him answer the question.

By Mr. McCarter:

Q. Until Messrs. Parker and Keasly did what?

A. Advised us otherwise.

Further cross:

Q. Had you not, in the month of January, 1869, made an issue of these bonds?

A. Yes, sir.

Q. And you did it on the strength of the consent-papers that you had got signed by the tax-payers in the previous fall?

A. Yes; and on previous pledges made by the company to the commissioners?

Q. I am speaking of the consent-papers.

A. Yes, sir.

382 You acted on the consent-papers of the fall of 1869 in issuing these bonds, did you not?

A. Yes, sir.

Q. Part of which consents were procured by you, part by Mr. Bonnell, and part by Mr. Littell?

A. Yes, sir.

Q. And you all there signed the bonds?

A. Yes, sir.

Q. And the certificate of stock which was issued in exchange for these bonds was placed in your custody, was it not?

A. Yes, sir.

Q. By the consent of all three?

A. Yes, sir.

Q. And has been in your custody ever since?

A. Yes, sir.

Q. For whom do you hold it?

A. I hold it for the town, I suppose.

Q. You hold it for the town, do you?

A. It belongs to the town.

Q. Did or did not you and Mr. Littell and Mr. Bonnell vote on the stock at the meetings?

A. Yes, sir; we did.

Q. From time to time, is that so or not?

A. Yes, sir; for the township.

Q. How often do you think you voted that way?

A. At the annual election of officers of the company.

383 Q. And was or was not the fact that you had issued these bonds and were voting on the stock and had taken the stock well known throughout the township?

A. I suppose it was.

Mr. McCarter: Speak of what you know, not what you presume.

Q. A matter of common knowledge and common notoriety?

A. It was known.

Q. Known generally or otherwise?

A. Yes, sir.

Q. Known generally, was it?

A. Yes, sir.

Q. Was there any concealment of it or was it done openly and talked of among the people?

A. There was no concealment of it at all. It was understood that the commissioners voted on the stock.

Q. In the meantime the road was being built?

A. Yes, sir.

Q. For the first two years that you voted on the stock and so on, the road was in process of construction?

A. Yes, sir.

Q. And the proceeds of these bonds went into the building of the road, did they not?

384 A. Yes, sir.

Q. You commissioners looked after that to see that the bonds were appropriated to that purpose?

A. Yes, sir. We took the receipt from the party we paid them to that the amount of the bonds was to be expended in the township we represented.

Q. Did you or not pay attention to that and see that the proceeds of the bonds as you issued them went into the building of the road in your township?

A. We did as far as we could—as far as we had control of them. After they passed out of our hands of course we could not control them.

Redirect:

Q. You say the road was built to Bernardsville through the township of New Providence?

A. Yes, sir.

Q. Between what points was the road constructed?

A. Up to what time?

Q. Any time.

A. From a place called West Summit to Bernardsville.

Q. How far is that?

A. I forget the distance. I should thing about 10 or 12 miles, perhaps more—I guess it was rather more.

385 Q. Was that all the road that was contracted for or contemplated to be built?

A. Oh, no; the contract was laid out to build the road to the Delaware river.

Q. From what point?

A. From Jersey City.

Q. Who was the contractor?

A. Mr. Hanford.

Mr. Pitney: Is that matter competent?

The Court: No, it is not important; it is of no consequence whether the road was ever built or not.

Q. You said that you issued the bonds on the consent-papers and on certain pledges. In the first place, what action did the commissioners ever take on these consent-papers after they were obtained?

A. What action, Mr. McCarter? I don't exactly understand what you mean.

Q. Counsel asked you if, in issuing these bonds, you acted on the consent-papers, and you said you did, and on certain pledges made by the company. What action did you take on the consent-papers?

A. We supposed there was sufficient.

Q. Did you have ever any formal vote or action on the matter at all?

386 A. Twelve commissioners met at Newark; I forget the date when the company required us——

By Mr. Pitney:

Q. Three commissioners, I suppose you mean.

A. No, sir; there was twelve; there was three for New Providence and some for Bedminster. The company required us to issue the bonds to them and take the stock. There was some reluctance on the part of the commissioners to do that, because there was a large number of subscriptions on the line of the road that the subscribers had not paid, and we did not want the town to pay their share unless three or four hundred thousand dollars was paid by individual parties on the line of the road.

Mr. Pitney: Your honor will understand me as excepting to this evidence.

Redirect:

Q. Proceed.

A. And on the assurance of the company that the individual subscribers on the line of the road would be compelled to pay their subscriptions as well as the towns we consented to issue the bonds to the railroad company.

Q. You did issue the bonds direct to the railroad company?
387 A. Yes, sir.

By Mr. PITNEY:

Q. You mean you delivered them to the railroad company?
A. Yes, sir.

Further redirect:

Q. In exchange for the certificate of stock?
A. Yes, sir.
Q. Did the commissioners get anything for the bonds except the certificate of stock for an amount equal to the amount of bonds issued?
A. That is all.
Q. Did the railroad company collect the other subscriptions of the stock?

Objected to, as immaterial.
Objection sustained.

Defendants' counsel urged that he thought he had a right to show that the railroad company were not purchasers for value.

The COURT: I shall admit the testimony in that view.

Q. Did the railroad company collect those subscriptions?
A. They did not; only partly.
Q. What dealings did they make of this stock effecting the value of the township stock?

Objected to.
388 Objection overruled.

A. I recollect seeing the full paid up stock-book of the company at one time; that some $1,600 full paid shares of stock had been issued to the executive committee of the railroad; in session by themselves they voted $80,000 par value of the stock to themselves for services which it was represented had been performed for the company.
Q. You said you were connected with the railroad company?
A. Yes, sir.
Q. In what capacity during the time these bonds were being gotten up and these consents offered?
A. I was first a director, and afterwards elected treasurer of the railroad company.
Q. Then when you were acting as commissioner you were treasurer of the railroad company?
A. Yes, sir.
Q. What power or what company prepared and stimulated and procured the issuing of the bonds?

Objected to.

Mr. McCARTER: This is in the same line that the railroad company got up the whole scheme of issuing these bonds.

389 The COURT: Go on and ask the question.

A. The railroad company.

The COURT: Of course they did; it was for their benefit, but to say that the bonds should not now on that account be paid is a rather extraordinary proposition to make in a court of law.

Q. Do you know what the railroad company did with the bonds?
A. The bonds of the township?
Q. Yes.
A. I could not tell; they paid them away to different parties, and sold them to brokers; paid them out to contractors who were engaged in constructing the road and so on.
Q. You said that you voted from time to time on the stock for the township?
A. Yes, sir.
Q. That is, you acted as commissioner in so doing?
A. Yes, sir.
Q. Did the township in any other way than as represented by you as commissioners ever have anything to do with these bonds?
A. Not that I remember.
Q. You said it was known that you were voting on this stock,
and that you were acting as commissioners; was any attempt
390 made to obtain an injunction, on the part of the tax-payers,
to stop the commissioners from further issuing of bonds?
A. There was no injunction served on the commissioners, but there were threats to do so.
Q. What action did the commissioners take in consequence of that?
A. Fearing that there might be an injunction, and that the construction of the road might be prevented or delayed, they paid over $48,000 in the bonds of the township to one of the largest tax-payers in the township, who was at that time the engineer of the company, taking a receipt from him that the value of those bonds should be used in the construction of the road through the township only.
Q. What was that man's name?
A. J. B. Bassinger.
Q. Did all the commissioners join in that action?
A. No, sir; Mr. Jonathan Bunnell had declined for some time previous to sign any bonds and act with the commissioners. Mr. Littell and myself did that part.
Q. Was there any mortgage on the road at the time these bonds were issued—the first set?

391 Objected to as immaterial and irrelevant.
Objection overruled.

A. I believe there was. There was a mortgage of three million dollars.
Q. Was that on the road when those bonds were issued?
A. I believe it was. I am not sure of that.

Q. Was it made in pursuance to and in authority of law?

A. We thought it was. The date will show whether I am correct or not. I am sure I cannot remember.

Q. The company had a law passed authorizing its being mortgaged, did it not?

A. So I understood.

Q. And you cannot remember the date of the mortgage?

A. No; I cannot.

Q. Just state when it was that the $48,000 of bonds were issued to Bassinger?

A. I think it was on the 6th of July, 1869.

Q. (Book handed to witness.)

A. (Referring to book.) This was not the time when the $48,000 was paid over.

Q. Was that the last issue?

A. It was not on the first of January.

Q. Were the $48,000 that were paid over to Bassinger the balance of the issue?

392 A. Yes, sir; it was all the commissioners had and the balance of the $85,000.

Q. What did the commissioners get for them?

A. They got the receipt of Mr. Bassinger, that was all.

By the COURT:

Q. Is not that a part of the stock that was given for the 1,700 shares of stock?

A. Yes, sir.

Q. Then you got the stock, did you not?

A. Yes, sir.

Further redirect:

Q. You cannot tell the date when these bonds were issued—the $48,000 of bonds?

A. I recollect it was two days after the 4th of July; it was in the middle of summer, and there is a receipt in existence somewhere that will determine the date.

Q. Who was that receipt given to?

A. Mr. Littell, my associate, took it, and I had a copy of it.

Q. Have you got a copy with you?

A. I gave a copy of it to Mr. Runckle.

Q. You took but one receipt from Mr. Bassinger?

A. That is all.

Q. That was a duplicate?

A. It was only one receipt.

393 Q. (Handing witness a paper.) Look at that, please.

A. That is all right except the date. I cannot think it was the first of January, 1870.

Q. You still think it was the 6th of July, 1869?

A. Yes, sir.

Q. And the bonds issued on that day were part of that issue?

A. Yes, sir; or else on the 6th of July, 1870. I could not say which.

Recross-examination:

Q. This subscription to the stock was to be paid by its terms, which I will not trouble you to show now, in installments of ten per cent.?

A. Yes, sir; as called for.

Q. They called upon the commissioners to pay 10 per cent. of their subscription, did they not, the railroad company?

A. Yes, sir.

Q. And you met together to see whether you would respond to that?

A. Yes, sir.

Q. And you said to the railroad Co., "Are you calling on the other people, for we do not want to pay any more than the other people?"

A. Yes, sir.

394 Q. And they said they were and would?

A. Yes, sir.

Q. There were a large amount of subscriptions taken up by individuals along the road?

A. Yes, sir.

Q. And on the pledge of the company that they would call in the subscriptions from the individuals, the commissioners agreed to pay their installments as called for?

A. Yes, sir.

Q. Ten per cent.?

A. Yes, sir.

Q. In bonds?

A. Yes, sir.

Q. With the further agreement that the proceeds of the bonds of each particular township should be expended on the road in that township?

A. Yes, sir.

Q. That is the sum and substance of it, is it not?

A. Yes, sir.

Q. And each of you commissioners undertook to, as far as you could, watch the company and see that it spent as much money in the township as the amount of the bonds?

A. Yes, sir.

395 Q. As they came out in installments?

A. Yes, sir.

Q. The first installment was called for and you delivered the bonds—$8,500—in pursuance of it?

A. Yes, sir.

Q. And the second installment was called for and you issued $8,500.

A. Yes, sir.

Q. The first two installments were all signed by all three of the commissioners?

A. Yes, sir.

Q. Then they called for the third installment, did they not?

A. Each installment was for $8,500.

Q. Were they not called for one after the other until you got in four installments?

A. I think they were.

Q. That would be $34,000, something like that?

A. Yes, sir. Until we were alarmed about this injunction.

Q. Up to what time did Mr. Bunnell act with you in signing the bonds?

A. I forget. I think the first two or three installments he acted with us.

Q. And signed his name to the bonds?

A. Yes, sir.

396 Q. And afterwards he declined to act further?

A. Yes, sir.

Q. The numbers on the bonds appeared on the book that was shown to Mr. Sanders?

A. Yes, sir.

Q. All those that were signed by all three commissioners were among the first installment?

A. Yes, sir.

Q. Then Mr. Bunnell got out, so to speak?

A. Yes, sir.

Q. Was not Summit cut off about that time from New Providence, and Mr. Bunnell put out of the township, so to speak?

A. Well, it was some time after, I think.

Q. Then you and Mr. Littell acted and signed the balance of the bonds yourselves?

A. Yes, sir.

Q. In advance of the call of the road?

A. Yes, sir.

Q. To prevent the injunction reaching you?

A. Yes, sir.

Q. An injunction being threatened, you delivered them all to Mr. Bassinger?

A. Yes, sir.

Q. Did you not advance the others to Major Bassinger by reason
of the circumstance that the chancellor had granted an in-
397 juction against the Bedminster commissioners in the town-
ship which was still west of Bernards?

A. No, sir; that did not enter into the consideration.

Q. The four townships were the township of Springfield, in Union county; next west of that was the township of New Providence, in Union county; next west of that was the township of Bernards, in Somerset county; and next west of that the township of Bedminster, in Somerset county?

A. Yes, sir.

Q. Those four united in this?

A. Yes, sir.

Q. Was not Bedminster enjoined by the chancellor?

A. I could not state as to that.

Q. This railroad was called the Passaic Valley and Peapack originally?

A. Yes, sir.

Q. New Providence was in the Passaic valley, was it not?

A. Yes, sir.

Q. The Passaic river runs near by?

A. Yes, sir.

Q. Then you go over into Peapack, which was in Bedminster township?

398 A. Yes, sir.

Q. Was not the original design to run to Peapack only?

A. I think it was spoken of as going in that section.

Q. Was there any attempt to bond any townships except those and the township of Passaic, in the county of Morris; was there any attempt made to bond any township west of Bedminster?

A. I do not think there was any attempt made.

Q. Was not the idea of extending it beyond Peapack to the west, to the Delaware river, engrafted on after the original design of building the road?

A. I think not; I think it was intended from the first to go to the Delaware river; but I was not a director when the project was first started.

By the COURT:

Q. When did you first become a director?

A. I think it was in 1870.

Q. Were you a director at the time you were appointed commissioner?

A. I was.

Q. Was that fact known to the people of the township?

A. It was.

Further redirect:

399 Q. What knowledge have you as to the extent of the knowledge the people of the township had of your being a director?

A. Well, they understood that I had been elected a director at the annual meeting of the company; that was common report, that I had been elected.

Q. It was known that you had been elected?

A. Yes, sir.

A. I want to know what knowledge you have as to how extensively the people of the township were informed on that subject?

A. Not any, only common talk.

Q. You knew it?

A. Yes, sir; I received a notice from the secretary that I had been elected; I did not attend the annual meeting or make any effort to be elected, but received notice that I had been elected.

Q. Can you say how many people of the township knew the fact that you were a director of the railroad company when you were acting as commissioner?

A. I was generally known among the people in the township; they were very much interested in knowing who the officers of the company were—the directors.

By the COURT:

400 Q. Did you hold yourself out as an officer of the company and act as such?

A. Yes, sir.

JOHN M. WILCOX, a witness called by and sworn on behalf of the defendants, testified as follows:

Direct examination by Mr. MCCARTER:

Q. Where do you live?
A. I live in New Providence, N. J.
Q. And have been assessor of the township?
A. I have.
Q. In what year?
A. For the year 1868.
Q. Were you assessor in 1867?
A. I was not.
Q. Were you assessor in 1869?
A. No, sir.

Q. (Showing witness a paper which was offered in evidence and has been called the first set of consents, filed Nov. 14th, 1868, and calling his attention to the affidavit annexed.) Is that your signature?

A. That is my signature, sir.

Q. Did you compare those consents with the assessment roll of the township for 1867?

Objected to.

401 DEFENDANTS' COUNSEL: I propose to prove by this witness that he signed the affidavit on the assurance of the agent of the railroad company that the thing was all right, without any examination on his own part.

The COURT: That will be admitted.

Exception prayed and allowed.

Q. (Last question read to witness as follows: Did you compare those consents with the assessment roll of the township for 1867?)

A. I did not.

Q. At the time you signed that affidavit did you know whether in fact the consents there were a majority of the taxpayers and of the landed property of the township as compared with the assessment roll of 1867?

PLAINTIFF'S COUNSEL: The same objection and exception?

The COURT: Yes; all excepted to.

PLAINTIFF'S COUNSEL: Anything to disprove the truth of the affidavits.

The COURT: It might as well be understood that it will all be ruled out if it appears that these parties were *bona fide* holders without notice. If it does not so appear it will be competent and will remain.

402 A. I did not; I took it upon the representation of the parties presenting the papers that they were all right.

Q. And you made no personal examination yourself?

A. I made no personal examination myself.

Q. Who presented the papers to you?

A. That I cannot say positively but I am under the impression it was Mr. Johnson.

Q. What Mr. Johnson?

A. Mr. Jarvis Johnson.

Q. Was it somebody connected with the railroad company?

A. Certainly it was, an officer of the railroad company, some one immediately connected with it.

Q. Did you know Mr. Bassinger?

A. I did, sir.

Q. Can you say whether he brought the papers to you, or who?

A. I cannot say positively; he might have been with Mr. Johnson; I think there were two or three at the time; I took it for granted they had made a personal examination of this matter and it was all right; it was a mere matter of business form with me.

Q. (Showing witness the second consents, filed Sept. 14,
403 1869.) Be good enough to read the affidavit signed by you,
annexed to that—read it over.

A. Yes, sir. (Witness examined paper.)

Q. Did you make that affidavit?

A. I did, sir.

Q. State the circumstances under which that was made.

A. That was presented in a very similar manner to the other; I think this was presented by Mr. Bassinger, the party before whom the affidavit was made.

Q. Mr. Samuel H. Bassinger?

A. Yes, sir.

Q. Dr. Bassinger?

A. Yes, sir.

Q. Was he connected with the company?

A. He was an officer also engaged in getting rights of way.

Q. Was he a brother of the engineer?

A. Yes, sir.

Q. Of J. B.?

A. Yes, sir; a brother of J. B. Bassinger.

Q. Did you then make an examination to see whether the signatures of the consent, together with those of the previous one, made a majority?

A. No, sir; I made no personal examination at all.

404 Q. Was it stated to you why that was wanted?

A. It was stated in a rapid manner that the other was thought to be defective, that it fell short; they made a clerical error or something of that sort, and it fell short; that this was all right, and I had but a moment then at the time; it comes to me now—I was passing Dr. Bassinger's house; he called me in and said, "I have those papers, they are all right now, give me your name."

Q. Had he told you before your name would be needed for an additional consent?

A. I think he had stated before that there were additional papers in his house, and when there was an opportunity he would like to have me fix them.

Q. When was that signed?

A. This (referring) is the 8th day of September, 1869; I was not assessor at that time; I was town clerk of the township.

Cross-examination by Mr. PITNEY:

Q. Where is the assessor's duplicate that contained a list of the tax-payers and the amount of property attached to each for the year 1867?

A. That is more than I can tell you.

Q. You have had it?

A. I have seen it, but not very recently.

405 Q. Was it not turned over to you when you were made assessor in the spring of the year 1868, as I suppose you were, from what you say; was it not turned over to you by your predecessor?

A. I think it was; either that or the field-book.

Q. The field-book is the original and the other is a copy made, and it is called the duplicate?

A. Yes, sir.

Q. You had one or the other?

A. Yes, sir.

Q. Do you mean to say that you made that affidavit without ever looking at that field-book to see whether it was true or not?

A. Without ever examining it minutely to see.

Q. Did you not count up the names?

A. No, sir.

Q. You made no footings?

A. Made no footings whatever.

Q. Were you not told by some of the signers or somebody else that the footings had been made up?

A. That is very probable. I would not have signed the affidavit unless I had had confidence——

Q. (Interrupting.) You would not have signed the affidavits unless you knew what you were signing?

406 A. Unless I thought——

Q. (Interrupting.) Had not Colonel Sanders taken the assessor's book—borrowed it from you—and made up the footings for you, and did he not show you them in the book?

A. No, sir; he never borrowed any book from me.

Q. Did he not have one of the duplicates?

A. Not to my knowledge.

Q. (Handing witness a paper.) Were you not shown these entries on this book in the handwriting of Col. Saunders, showing a complete copy of the whole assessment roll, the whole duplicate; that is, all those who had any property, with the number and total amount of the assessment, the number of names, and the value of the property belonging to each, showing the majorities called for by your affidavit?

A. I have never seen the book before to my knowledge.

Q. You know Col. Saunders, do you not?

A. Yes, sir.

Q. Were you not told by him that he had gone over the book carefully and abstracted it?

A. I don't remember any conversation with Col. Sanders on the
subject at all. I saw him frequently at that time and knew
407 him well, but I remember nothing of ever having any consultation
with him or having any statement from him in
regard to this matter.

Q. Do you mean to say that after being told the first papers were defective you made this very remarkable affidavit annexed to the second paper without any examination whatever?

A. Without any examination whatever.

Q. I want to read it to you to see if it is possible you could have done such a thing.

(Counsel reads same to witness.) Now, do you mean to say that you deliberately signed and swore to that affidavit without having done any of those things which you swear you did do?

A. My view in this matter——

Q. (Interrupting.) Just answer that question.

A. I did not.

Q. You did not do any of that?

A. And I will tell you why: There is a great deal of verbiage attached to this paper which they say there is no meaning to, and I supposed such was the case with that.

Q. What did you swear to if you did not swear to what is written
there? What did you understand yourself as swearing to?

408 A. To conform merely to the law in regard to these bonds.
It was merely a matter of form I thought that I had to comply
with; those were the representations made to me—that it was a
mere matter of form we had to comply with, and that was all that
was necessary.

Q. You were a resid[illegible] the township of New Providence?

A. I was born there.

Q. And always lived there?

A. Yes, sir; I was a married man and very much interested in these matters.

Q. You were assessor and have since been town clerk?

A. Yes; well, I have only been assessor for one year.

Q. You have been a commissioner of deeds?

A. No, sir; a road master was the highest.

Q. You write a pretty good hand, as if you were an educated man. What is your business now?

A. Farmer.

Q. You have no other business?

A. No, sir.

Q. Have you been engaged in business in New York?

409 A. Yes, sir; I have been engaged in the express business.

Q. I will read you the other affidavit. (Counsel did so.) "That he has read the foregoing consents of the taxpayers of the township of New Providence." Is that true; had you read them over?

A. No, sir.

Q. That was not true?

A. I had not read them over.

Q. (Reading.) "And that he has read and inspected the names hereto attached." Had you read them?

A. I saw some of them. I saw who preceded my name, and that gave me a little——

Q. The question is, Had you read over those names?

A. I had read a portion of them, but I did not read them all through to see that they were taxpayers of that township.

Q. (Reading.) "And that he" has also carefully inspected the assessor's roll for the year 1867. Was that true?

A. No, sir; I had not.

Q. Had you not been elected before you made your own assessment?

A. I had looked over it.

Q. You made your own assessment in the summer of 1868, did you not?

410 A. Yes, sir.

Q. And did you not have the old duplicate of 1867?

A. I got that to guide me to find the property.

Q. And copied the names?

A. Yes, sir.

Q. From one to the other?

A. Alphabetically.

Q. Then it was true that you had inspected that pretty carefully?

A. I had looked over the accounts and the names.

Q. (Reading.) "And knows the taxpayers of said township." You knew them?

A. Yes, sir; pretty well.

Q. That is true?

A. Yes, sir.

Q. (Reading.) "And that the persons signing such consents are a majority of the taxpayers of said township?"

A. Well, that fact I did not know.

Q. You did not count them up?

A. No, sir.

Q. But you swore to it?

A. Well, it appears so in the affidavit.

Q. (Reading.) "And represent a majority of the real property of said township." You did not figure that up?

411 A. No, sir.

Q. That part you do not know anything about?

A. Presumptive.

Q. You do not know it is not true?

A. No, sir; I do not to this day.

Q. You do not know that what you swore to is not true to this day?

A. No, sir.

Q. (Reading.) "And also that such persons signing such written consents are a majority of the tax-payers of said township, appearing on the assessment roll of said township for the year 1867, or their legal representatives, &c. (Counsel read on down to "for the year 1867.") That part you do not know whether it is true or not?

A. No, sir.

Q. You made no verification?

A. No, sir. I presumed it was right from the fact that it was presented to me by one of the officers.

Q. Why did you presume it then?

A. Because it was his business to know. It was, however, mine also, but I was actively engaged in other matters and had not time to look into it.

Q. You are still a tax-payer and live in New Providence.

412 A. Yes, sir.

Q. And you are very much interested in not paying these bonds?

A. No, sir.

Q. Don't you think you are going on this stand to help this township out of it, and are forgetting what you did?

A. No, sir; I am forgetting nothing. If we had the value, or anything like it, for our bonds I should vote to pay them every dollar.

Q. That is not what I asked you. But are you not really forgetting that you did make a statement and calculation when you swore to it?

A. I have not forgotten that I made a mistake when I made the affidavit.

Q. How do you know you made a mistake?

A. It appears so on the face of it.

Q. How so?

A. Because I did not know what I said I did.

Q. How can you swear to-day that you did know in 1869 that the affidavit was substantially true?

A. I know it from the fact that I never made any calculation. I never went into a calculation.

Q. How do you know you did not?

A. I have no remembrance of it.

413 Q. All there is about it is that you do not recollect it?

A. I do not recollect it.

Q. If the jury should believe that you are now forgetting, and that what you swore to then is true, I think it would be actually more complimentary to you than to take what you now say to be true.

A. Yes, sir.

Redirect-examination:

Q. You said you had the duplicate of 1867, either the duplicate or the original, assessment roll?

A. Yes, sir; I had it to make up the names from.

Q. Was it the year 1867?

A. It was the year preceding 1868.

Q. Of whom did you get it?

A. I got it from Mr. Potter, I think. I am not positive.

Q. His assessment roll is the original assessment?

A. Yes, sir.

Q. What did you do with it? After you used it what disposition did you make of it?

A. I think I returned it to him.

Q. Do you remember what kind of a looking document it was?

A. I think it was nothing but the field-book.

Q. A leather pass-book do you mean?

414 A. Yes, sir; what we term a field-book. I am quite positive I never had the duplicate in my possession.

Q. It was the assessor's copy of the assessment you had?

A. It was the assessor's field-book of 1867. I had that to indicate where the property was and the names, &c.

Q. And you think you returned that to Mr. Potter?

A. Yes, sir; I think I did.

Q. And that is the one you made use of as a guide to the discharge of your duties as assessor?

A. Yes, sir.

Amos Potter, a witness called by and sworn on behalf of the defendants, testified as follows:

Direct examination by Mr. McCarter:

Q. Do you live in New Providence township?

A. Yes, sir.

Q. Were you assessor of that township?

A. Yes, sir.

Q. In what year?

A. 1866 and 1867.

Q. You made an assessment in the year 1867?

A. Yes, sir.

Q. Have you got your assessment roll or the book by which you made the assessment?

A. I have nothing except this. (Witness produced a book.)

415 Q. Is that the one?

A. Yes, sir.

Q. Is that the document which you produced at the meeting of the board of assessors for that year?

A. Yes, sir.

Q. And contained your affidavit?

A. Yes, sir.

Q. According to the statute?

A. Yes, sir.

Q. Have you compared, for the purpose of ascertaining whether the consent-paper for bonding the township—compared it with the names on that assessment roll, to see whether the consents contain a majority of the tax-payers who appear to be tax-payers by that assessment roll?

A. I have, from a paper that purported to be a list of the persons who signed that consent.

Q. What did you ascertain?

Mr. PITNEY: Your honor will allow me an exception and objection to this line of evidence again.

The COURT: Certainly.

Q. Whether, in fact, the signers of that consent constituted a majority of the tax-payers appearing on that assessment roll of 1867?

416 Objected to.

Objection overruled.

Exception prayed and allowed.

A. It don't contain a majority of the names of the tax-payers.

Q. Can you tell what your examination has disclosed as to the figures?

A. I could by some papers that I had by referring to them. (Papers handed to witness.) We found, by going over carefully the list of the persons who signed the consent and the duplicate, that there [were] thirty names on that consent that were not on the duplicate and twelve names that only paid poll taxes, not owners of real estate.

Q. How many names were there altogether on the duplicate?

A. I do not think I could tell you that.

By Mr. PITNEY:

Q. Do you say you do not know how many names are on the duplicate?

A. Not positively.

Further direct:

Q. Did you make a sufficient examination to determine whether or not the names on the consent who are tax-payers on the duplicate are a majority of such tax-papers?

417. A. We did not fully get through with the investigation.

Q. You did not complete that?

A. No, sir.

Q. You were assessor in 1867. Were you also assessor in 1869?

A. Yes, sir.

Q. Can you tell the whole account of taxable real property contained on this assessment roll; have you footed up anywhere the real property by itself?

A. No, sir.

Q. It is contained in this assessment roll?

A. Yes, sir.

Q. In a separate column, is it not?

A. Yes, sir.

Q. So that by footing it up it can be shown?

A. Each column is added up; each page is footed up; but they are not added together.

Q. But by taking the column at the foot of each page and adding them together you can get at the valuation of the real estate in the township for that year?

A. Yes, sir.

Q. You cannot give us the figures now?

A. No, sir.

Q. What names appear on the consent that are not on the book at all?

A. Do you wish the name of each one?

418 Q. Yes; all those that signed the consent that are not on there.

A. One was G. A. Bernett, Anne Barton, John Nair, Michael Hasting, Deborah Brant, Thomas Meaz, Henry B. Rounnell, M. A. Marshall, H. C. Beach, George H. Jarvis, John A. C. Codington, L. M. Weston, James F. Weston, George H. Milligan, James Bennett, W. Glossen, Agnes Matair, Mary Wall, Lewis M. Frank, C. E. Alton, Page, Kidder & Co., Emily N. Hicks, A. M. Cory, J. A. Grow, William Grow, Eliza Forbis—there is one name here that I cannot make out—S. A. Brockit, it looks like—there is another one here I cannot make out.

Q. Let me see (counsel examined); that is R. Tooker.

A. That is all.

Q. Have you counted the number of names on your book?

A. I have not recently.

Cross-examination by Mr. PITNEY:

Q. The 33 names which you have just been giving are the names of those persons which you say now you find upon the consent-paper which were not upon your field-book?

A. Yes, sir.

419 The COURT: He was only given twenty-eight.

Q. Well now, Mr. Potter, do you know those persons; are you personally acquainted with them?

A. A very few of them, I do.

Q. Were they not persons who had come into the township and bought real estate since the assessment of 1867 was made?

A. I could not tell that.

Y. Did you ever assess the township again?

A. Yes, sir.

Q. Did you assess it in 1869?

A. Yes, sir.

Q. Who assessed it in 1868, Mr. Wilcox?

A. Yes, sir.

Q. Have you your duplicate of 1869 or field-book?

A. Not here.

Q. Why did you not bring it along?

A. I did not think of it and did not know it was necessary; in fact it is so long ago that I do not know that I could lay my hand on it immediately.

Q. Can you say that these persons whose names you have just read from the paper were not persons who came in and bought real estate of persons who were on the tax list for 1867?

420 A. Well, I do not think they were. I could not say positively.

Q. Did you make that list you were reading from yourself?

A. I assisted in making it. It is not in my handwriting.

Q. You say that you have not counted up the number of tax-payers on the tax-list or assessment roll that you made?

A. No, I have not.

Q. And you cannot say whether or not this paper of 1868 was signed by a majority number of the tax-payers or not.

A. Well, I could not say without footing up.

Q. Nor have you made a footing of the amount of real estate taxes in the township for the year 1867?

A. No footing except the footing at the bottom of the page.

Q. Can you tell me how much it was?

A. The whole amount?

Q. Yes.

A. I could not.

Q. Have you taken the names of those who signed that consent paper and ascertained how much each of these was taxed with in real estate so as to be able to ascertain whether the consent paper of 1868 was signed by a majority in amount of the real
421 estate owners; you have not done that, have you?

A. Not positively; no sir.

Q. What I want to get at is this, to be perfectly fair with you, sir, the affidavit annexed to these papers (referring to consents) swears to this, you are not able to say whether the persons signing that consent paper of 1868 did reach a majority of the landed property of such township appearing by the assessment roll for the year 1867 or not?

A. No, sir.

Q. If any of the persons who appear upon the duplicate of 1867 had sold their property to new-comers between that and 1868, could you tell whether or not the majority of those persons did represent a majority of the real estate appearing on the assessment roll without having here the duplicate of 1868?

A. Well, I think I could.

Q. Do you know who sold their property between assessing time in 1867 and assessing time in 1868?

A. I think I do.

Q. Do you think you can tell here on the stand all the changes to the title of real estate in the township?

422 A. Not now on the stand I could not, but by having time to look over memorandums that I have.

Q. I think you would want the roll for 1868 to do it?

A. I think I have that at home.

Q. You have not got it here?

A. No, sir.

John Littell, a witness called by and sworn on behalf of the defendants, testified as follows:

Direct examination by Mr. McCarter:

Q. Where do you live?
A. Michigan.
Q. You formerly lived in New Providence?
A. Yes, sir,
Q. When did you leave the township of New Providence?
A. Four years ago last March.
Q. And since that you have lived in the State of Michigan?
A. Yes, sir.
Q. Did you act as one of the commissioners in bonding the town?
A. Yes, sir.
Q. Did you have in your hands a receipt signed by J. B. Bassinger?
423 A. I think I did.
Q. Did you hear the testimony of Mr. Johnson?
A. Yes, sir.
Q. Did you have Bassinger's receipt for $48,000 of bonds which he testified were issued in anticipation of injunction?
A. I would not state positively, but it is my impression I had it in my possession.
Q. Where is it?
A. I cannot tell.
Q. Have you looked for it?
A. Yes, sir.
Q. And made a search for it?
A. Made a search for it.
Q. Have you been able to find it?
A. No, sir.
Q. It is not now in your possession?
A. I think not; I looked through all my papers and failed to find it.
Q. Do you know what has become of it?
A. I do not.
Q. Do you know whether Mr. P. T. Wood made a copy of it?
A. My impression is that Mr. Johnson made a copy of it.
Q. Do you remember Mr. P. T. Wood getting it of you for the purpose of making a copy of it?
424 A. No, sir; I do not.
Q. And you do not know what has become of it?
A. No, sir.
Q. Up to the time you left the township of New Providence, at the time you left, what was done or being done by the commissioners concerning these bonds, anything?
A. No, sir.
Q. The commissioners received a certificate of stock which was issued for the bonds?
A. Yes, sir; they did.

Q. Was there ever any dividend received on that stock?

A. No, sir; not to my knowledge.

Q. Anything realized by the township on the stock?

A. I think not.

Mr. Pitney moved to overrule the testimony that the township did not realize anything from the stock, as irrelevant.

The Court: The testimony is overruled.

Mr. McCarter: I pray an exception to the ruling of the court.

The Court: State your object in asking this question.

Mr. McCarter: I propose to show by this witness that the township never realized one dollar of benefit from those bonds;
425 that they never received one dollar of value for them, except
the certificate of stock; that they never received any dividend of the stock; and that the road was sold under foreclosure, by which the stock became utterly worthless.

The Court: I suppose it is admitted on the other side.

Mr. Pitney: It is a fact, there is no doubt about that, but in objecting I wished to put myself on record. While I admit it to be true, I deny its relevancy and desire it to appear on the record.

Mr. McCarter: I want to know whether the fact is in or not. If it is admitted on the record I do not want to prove it; if not, I want to have the ruling of the court.

The Court: You can prove it by this witness, and then it will be in the case.

Q. Now, Mr. Littell, tell us the fate of that stock, so far as the township receiving any value for it?

A. Before I left New Providence I think that the stock was considered worthless. The road was sold under foreclosure and we did not consider that we had received any benefit.

Q. Under foreclosure of the $3,000,000 mortgage that has been spoken of?

426 A. Yes, sir.

Mr. Pitney: The fact is, and I open it, that Mr. Packer bought a controlling interest in this road, and proposed to adopt it as an extension of the Lehigh Valley railroad from Pennsylvania to New York, and that these very commissioners, who held the stock of these three townships, used that stock to vote Packer out and put it in the hands of parties who were not able to carry the plan out.

Since I have allowed defendants' counsel to prove by this witness that nothing was realized from the stock, I'll allow you to prove that. (To defendants' counsel.) If I admit the other have you any objection to admitting that?

Mr. McCarter: I do not make any admissions.

Cross examination by Mr. Pitney:

Q. Did not the road pass into the hands of Mr. Packer at one time and the Lehigh Valley railroad?

A. Yes, sir.

Q. Was he not president, or something of that kind, and have a board of directors?

A. Yes, sir.

427 Q. And was he not engaged in making arrangements to finish the road and carry it through to Pennsylvania?

Mr. McCarter: Speak of your own knowledge.

Q. The same way as yours spoke of the other general information?

A. It seemed as though he was going on.

Q. Did not the commissioners of New Providence and the other commissioners of Bernards holding these large certificates of stock attend a meeting of the stockholders and vote out Mr. Packer's directors and vote in Mr. Beekman's directors?

A. They did; at least they helped to do it.

Q. Could it have been done without the vote of the stock of New Providence and the stock of Bernards?

A. Well, I would not want to say positively, as I do not recollect that.

Q. When in the hands of the Lehigh Valley road it was in the hands of strong and staunch parties, was it not?

A. It was said to be.

Q. And they voted it into the hands of Mr. Beekman, did they not—Benjamin F. Beekman?

A. He was one of the men they voted for.

Q. He had a set of stockholders and got control of a majority of the stock of New Providence and Bernards, did he not?

428 A. Will you repeat that, please?

Q. Beekman, I say, got control of the vote of the stock of New Providence and Bernards?

A. Well, the direction was changed.

Q. By their vote?

A. They assisted.

Q. They changed it in the interest of Mr. Beekman?

A. Well, they assisted.

Q. And Mr. Beekman was not able to carry on the enterprise?

A. Well, it was not carried through.

Q. He had not capital enough, had he?

Mr. McCarter: Well, I do not suppose the witness knows.

Q. Was not that, in your judgment, the cause of the failure of the road?

A. I do not know whether that was the cause of the failure of the road or not. I never was satisfied that Mr. Packer was going to carry the road through, or I would not have used my influence to take it out of his hands.

Q. You were suspicious that he did not mean to carry it through?

A. He did not do as he agreed to with the township of New Providence.

429 Q. He agreed to take your stock off your hands and pay

par for it, and it made you a little mad because he did not do it; how is that?

A. I do not think that was the cause.

Q. He did not do as he agreed to with the township of New Providence and you voted him out?

A. Well, he did not satisfy us——

Q. (Interrupting.) He agreed to assume payment of those bonds, did he not, or you wanted him to?

A. Well, we wanted to be satisfied; we were going to get some value of our money.

Q. And he did not quite come up to the scratch to suit you and you put Mr. Beekman in?

A. Well, we were not satisfied with him.

Q. Mr. Beekman indemnified you against these very bonds?

A. No, sir; not to my knowledge.

Q. Did he not give you a bond of indemnity?

A. Not that I know of.

Q. Well, he did it in the Bernards case?

A. He did not for us.

Redirect examination:

Q. In making that vote you acted for the best interests of the township as you suppose?

A. Yes, sir.

430 Q. You were the representatives of that township in regard to that stock; that is, you were the commissioners?

A. Yes, sir.

Q. Had the town committee or any other officers of the township ever directed you in regard to your action on that stock?

A. Yes, sir; I think some of them did.

Q. As individuals?

A. Yes, sir.

Q. Did Mr. Packer ever agree to pay the \$3,000,000 mortgage?

A. Not to my knowledge.

Q. Was or was not the inability of the company to pay that mortgage the cause of the foreclosure and of the failure of the company?

A. Yes, sir.

Q. Can you tell when that mortgage was given?

Objected to.

Defendants rested with the privilege (by agreement) of offering some further testimony as to the assessment roll, &c.

431 JAMES JACKSON, a witness called by and sworn on behalf of the plaintiff, in rebuttal testified as follows:

Direct examination by Mr. PITNEY:

Q. Where do you live?

A. At Millington, N. J.

Q. That is in Passaic township, Morris Co.?

A. Yes, sir.

Q. Did you ever own one of these bonds?
A. Yes, sir.
Q. Do you recollect the amount of it?
A. $500.
Q. What was the number?
A. I do not recollect the number.
Q. Would you recognize the bond, do you think, when you saw it?

(Bond No. 6 handed to the witness.)

A. That appears to be it.
Q. Where did you get that bond?
A. Of John H. Smith, of Madison.
Q. What did you give him for it?
A. $450.
Q. In cash or equivalent?
A. In cash.
Q. When was that?
432 A. I cannot fix the date, but it appears it was some four months after the bonds were issued.
Q. You heard that they were issuing bonds?
A. Yes, sir.
Q. You have been attending here and heard the evidence?
A. Yes, sir.
Q. At the time you bought the bond had you ever heard of any of these irregularities that have been spoken about?
A. I did not.
Q. What did you suppose about the bond when you bought it as to its being a good or valid investment?
A. I supposed it was a good investment; that I would save $50 by it and get 7 per cent. interest.
Q. Did you buy it in good faith?
A. Yes, sir.
Q. Did you have any idea there was any defect in it or defence to it?
A. I had not, or I should not have purchased it.
Q. What is Mr. Smith's business?
A. Carriage builder.
Q. You are not a dealer in bonds?
433 A. No, sir.
Q. You are a farmer and manufacturer?
A. Yes, sir.
Q. A business man—not a broker or note shaver?
A. No, sir. I merely bought it as a matter of investment.

Cross-examination by Mr. McCarter:

Q. What did you do with it?
A. It has laid in the Iron Bank for the last 6 or 7 years.
Q. Do you own it yet?
A. No, sir.

Q. Who does own it?
A. Mr. Halsey, I assigned it to him.
Q. By written assignment?
A. Yes, sir.
Q. When did you sign the assignment that transferred the bond?
A. I signed it this morning.
Q. (Handing witness a paper.) That is the paper by which you put the bond over to Mr. Halsey?
A. Yes, sir.
Q. And this you signed this morning?
A. I did, sir.
Q. The bond has been in the Iron Bank?
A. I had it laying there for some time for safe keeping.
434 Q. How did it come to be in this suit?
A. Because I wanted to collect the face of it if I could.
Q. And you put it in for that purpose?
A. I did, sir.

By Mr. PITNEY:

Q. When the suit was commenced way back?
A. Yes, sir.

Further cross:

Q. Do you know Mr. Abraham Halsey?
A. I am not personally acquainted with him.
Q. Did you ever see him?
A. I did not.
Q. Do you know anything about whether he is a responsible man or not?
A. I understood he was.
Q. Where did he live?
A. I understood he is living in California.
Q. Did he pay you anything for the bond?
A. He did not.
Q. You never received anything for it?
A. I did not.
Q. And the money collected on it is to come to you?
435 A. I expect to get the money I paid for it; I expect to get it back.
Q. That is, you hope to get it back?
A. I do, sir.
Q. Who is this Mr. Smith you got the bond from?
A. A carriage manufacturer of Madison.
Q. Is he related to you in any way?
A. No, sir.
Q. A brother-in-law?
A. No, sir.
Q. No relation of yours?
A. No, sir.
Q. Did you take it for a debt?
A. No, sir.

Q. Did you give the money for it?
A. I did.
Q. In cash?
A. I did.
Q. Did you give money for it or a check?
A. Bills. Do you want me to state why I bought the bond?
Q. Yes.
A. Mr. Smith was short of money, and asked me if I would buy the bond of him, as he was short of money; that he had
436 taken this bond in his business for goods he had sold, and I thought it was good and gave him $450 for it.
Q. When was that?
A. Some eight years ago, I guess.
Q. Give the date.
A. I cannot; I have not got a memorandum of it.
Q. Is he not a relative of your wife?
A. No, sir.
Q. Or a partner in business?
A. He used to be.
Q. How was that?
A. The firm was Smith & Co.
Q. And you were the "company"?
A. I was one of the company.
Q. When you bought the bond did he give it over to you?
A. He did.
Q. What did you do with it?
A. I took either one or two of the coupons off, and got the money for them through the Iron Bank; when I wanted the next the payment was stopped and the bond lay in the bank for security —safe keeping, I mean.

Q. And it has remained there since until it was brought here?
437 A. Yes, sir; since it was passed to Mr. Halsey some time ago.
Q. Did you ever write your name on this bond?
A. Not that I am aware of; I could tell if my signature is on it.
Q. Can you tell from memory the number of the bond?
A. No, sir.
Q. Could you identify the bond in any way?
A. No, sir; I could not; I am not positive.

Mr. Pitney: We will supply that proof.

Q. (Handing witness papers.) How can you tell which one of those bonds is yours?
A. I have told you I could not.
Q. You cannot then, you say?
A. I do, I say that positively; you asked me whether my signature was on it, I told you I believed it was not.
Q. You cannot tell from any knowledge of your own which one of these $500 bonds belonged to you?
A. No, sir; I am under oath & could not swear which was mine, for I did not particularly notice.

Redirect examination:

438 Q. You heard about suit being about to be commenced?

A. I did.

Q. And had correspondence or communicated with Mr. Marsh about it?

A. I do not remember.

Q. And directed Mr. Marsh?

Objected to as leading.

Argument follows.

The Court: I think that in reply to the cross-examination concerning the signing of the paper this morning, the witness is authorized to state such action that he took to put this suit under control of plaintiff when the suit was brought. He need not state the contents of the letter, but may state if he wrote such a letter; he may go to the extent of saying he did put the bonds in possession of the plaintiff.

The Witness: How am I to inform you what I did?

By the Court:

Q. Do you know how this bond of $500 which you say you 439 owned got under the control of the plaintiff in this suit, Mr. Halsey?

A. Yes, sir.

Defendant's counsel objected to any evidence showing the contents of a letter already mentioned supposed to have been written by this witness unless the letter be produced.

The Court (To the witness): You need not state any of the contents of the letter.

Further direct:

Q. State it without stating what the contents of the letter were.

A. I empowered Mr. Marsh to act for me in the matter.

Recross-examination:

Q. Was that authority in writing?

A. You told me not to answer that question.

The Court: You can answer it now.

Q. Was the authority in writing?

A. Yes, sir; certainly.

Defendants' Counsel: I now move to overrule the evidence unless the writing is produced.

By the Court:

Q. Have you that letter?

A. I wrote a letter to Mr. Marsh.

440 Q. But have you that letter?

A. No, sir.

Q. Is it under your control?
A. No, sir.
The COURT: The testimony may stand.

And thereupon defendants' counsel prayed an exception to the ruling of the court in admitting said testimony, and that his said exception may be sealed, it is sealed accordingly.

JNO. T. NIXON, *J.* [L. S.]

Q. Mr. Marsh is here to-day?
A. Yes, sir.

The COURT: Let it be understood that the testimony is admitted as a reply to the cross-examination as to the signing of the assignment.

Q. You say you live in Millington?
A. Yes, sir.

441 HAMPTOM O. MARSH, a witness called by and sworn on behalf of the plaintiff in rebuttal, testified as follows:

Direct examination by Mr. PITNEY:

Q. You reside in Morristown?
A. Yes, sir.
Q. And the president of The National Iron Bank?
A. Yes, sir.
Q. (Handing witness a paper.) Look at bond No. 46 for $500 and see whether you have seen it before?
A. Yes, sir.
Q. Where and when?
A. It has been in my possession two or three years.
Q. How do you know that?
A. I know it by this endorsement (referring).
Q. What is the endorsement?
A. James Jackson, Millington, N. J.
Q. Your endorsement?
A. Yes, sir.
Q. In lead pencil?
A. Yes, sir.

442 Q. Did you do anything with the bond in connection with this suit?

A. It was placed in my hands with a lot of other bonds that were assigned to a Mr. Halsey, of California, for collection.
Q. Was it among the number of bonds that were in your hands for the purpose of this suit?
A. Yes, sir.
Q. You have had possession of all those bonds?
A. Yes, sir.
Q. You had them in a lock box, a safety box, a deposit box, in the bank?
A. Yes, sir; they were placed in my hands for safe keeping.

Q. And by whose authority, if any, did you put that No. 46 among the rest?

A. By a request—or consent—of Mr. Jackson.

Q. He has testified that he wrote you a letter. Have you that letter?

A. Not here; I have the letter at home.

Q. Now, I show you bonds Nos. 6, 7, 8, & No. 48; 6, 7, & 8 are for \$1,000 each & No. 48 is for \$500. Do you remember seeing those before?

443 A. Yes, sir.

Q. And from whom did you receive them?

A. I got them from my father's estate.

Q. John Marsh?

A. Yes, sir.

Q. Were you his administrator?

A. Yes, sir.

Q. When did your father die?

A. January, 1870.

Q. Your father lived in Morris Co.?

A. Yes, sir.

Mr. Pitney: I offer the letters of administration in evidence.

Q. Do you know where your father got those bonds?

The Witness: He bought them in Morristown.

Q. Did you know of it at the time?

A. Yes, sir.

Q. How much did he pay for them?

A. My impression is that he paid about 85 cents on the dollar.

Q. In that neighborhood?

A. Yes, sir.

Q. How did he pay for them?

A. In money, cash.

Q. Were you knowing of the transaction at the time?

A. Yes, sir.

444 Q. At that time he was an elderly gentleman?

A. Yes, sir.

Q. And lived at Mendham?

A. Yes, sir; in very poor health.

Q. Six or seven miles west of Morristown?

A. Yes, sir.

Q. Who attended to his business affairs?

A. I did largely.

Q. At that time, did he to your knowledge, or did you know of any of these defects that have been spoken of here, to these bonds that they were irregularly issued in any way?

A. No, sir.

Q. Did you have any suspicion?

A. Not in the least.

Q. (Continuing last question) of anything wrong about the bonds?

A. Certainly not.

Q. Do you know whether or not they were being generally sold in the market in Morristown and about there?

A. I believe they were; I heard of their being for sale & advised him to buy them, and he bought $4,000.

445 Q. There are $3,500 here?

A. Yes, sir; they were all alike at first, but I exchanged one for a bond that I thought equally valuable.

Q. Were they purchased in good faith, supposing them to be good and valid bonds?

A. Yes, sir; they were bought as investments.

Q. Your father was not a broker or note shaver or anything of that kind, was he?

A. No, sir.

Q. Or you?

A. No, sir.

Cross-examination by Mr. McCarter:

Q. When did your father buy those bonds?

A. In the year 1869.

Q. Of whom did he buy them?

A. He bought them of D. D. Craig, cashier of our bank.

Q. Was he treasurer of the railroad company?

A. I do not know whether he was at that time or not; I believe he was at one time.

Q. Were you present at the time they were purchased?

446 A. Yes, sir.

Q. Was your father there?

A. No, sir; he was at home.

Q. You bought them for your father?

A. Yes, sir.

Q. You made the negotiations?

A. Yes, sir.

Q. Where did it take place, in the bank?

A. Yes, sir.

Q. You were president of the bank?

A. Yes, sir.

Q. And Mr. Craig was cashier?

A. Yes, sir.

Q. You paid eighty-five per cent. you say?

A. Yes, sir; I think he paid 85 per cent.

Q. Who made the payment?

A. I paid it by my father's check; I think that is my recollection now.

Q. Your father's check?

A. Yes, sir.

Q. On what bank?

A. On the Iron Bank.

Charles F. Ogden, a witness called by and sworn on behalf of the plaintiff in rebuttal, testified as follows:

Direct examination by Mr. PITNEY:

Q. Where do you reside?

447 A. Troy (?) Morris Co., about 8 miles northeast of Morristown.

Q. What is your business?

A. Carpenter.

Q. You are not a broker or note shaver or dealer in securities?

A. No, sir.

Q. Do you ever have any money to put out?

A. I do; a little. Once in awhile I save a little.

Q. I show you bond No. 49 for $500, see if you ever saw that before.

A. Yes, sir; I had a bond of that denomination.

Q. Look in the corner and see if you put your name on it to identify it?

A. That looks like it.

Q. Is that your handwriting?

A. I think it is.

Q. Have you any doubt about that being the bond?

A. None at all.

Q. How did you come by that bond?

A. I bought it, paid money for it, eighty-seven and a half per cent. on the dollar.

Q. In cash.

A. Yes, sir, in money.

Q. You have been sitting here and heard the evidence in the case?

448 A. Yes, sir.

Q. You have heard the witnesses who have been sworn on the part of the defence to show some irregularity about the issuing of these bonds—that they did not manage it right?

A. Yes, sir.

Q. Had you ever heard anything of that sort when you bought it?

A. No, sir; I did not know anything of the kind.

Q. Did you ever hear of anything wrong about it?

A. No, sir; I thought nothing wrong about it; I bought it in as good faith as if I had bought a Government bond.

Q. For what purpose did you buy it?

A. I had the money and invested it in that.

Cross-examination by Mr. MCCARTER:

Q. How long have you lived at Troy continuously?

A. All my life.

Q. Have you always resided in Morris county, in this State?

A. Yes, sir.

Q. Of whom did you buy this bond?

A. Richard Smith, of Troy.

Q. What is his business?

A. He is a railroad contractor, I believe now a farmer.

449 Q. Did you pay him in bills or check?

A. I gave him the money for it.

Q. When did you buy it?

A. I bought it in the fall of 1869.

Q. What time in the fall?

A. Well, I suppose it was in October; I know it was about the time we were taking apples to the cider mill; I suppose it was about in October.

Q. Have you ever received anything for the principal of the bond or any part of it?

A. None of the principal; I think two or three of the coupons were paid at first through Mr. Craig in the Iron Bank at Morristown.

Q. But no principal?

A. No, sir.

Q. That is coming yet?

A. I hope so.

Q. Coming to you?

A. Yes, sir.

Q. You still own the bond, really, do you not?

A. No, sir.

Q. Who does?

A. Well, I suppose Mr. Abraham Halsey owns it?

Q. You have assigned it to him by this deed of assignment?

A. Yes, sir.

Q. But the money is coming to you yet?

450 A. Well, I hope to get something at some time, from Mr. Halsey, for the bond.

Q. Mr. Halsey gave you no note or anything for it?

A. No, sir; I have no note for it.

Q. (Handing witness the deed of assignment.) That (referring) is your signature?

A. Yes, sir.

Q. And this paper shows the way you put the bond in Mr. Halsey's hands?

A. I suppose it does.

Q. Do you know Mr. Abraham Halsey?

A. No, sir.

Q. Did you ever see him?

A. I never saw him.

Q. And you never had any dealings with him except as far as this is concerned?

A. No, sir; all the business I have done is through Mr. Edmund D. Halsey.

Redirect:

Q. You know his father?

A. Yes, sir.

Q. Samuel B. Halsey, of Rockaway?

A. Yes, sir.

Q. And know the Halsey family?

A. Yes, sir.

JOHN L. BALDWIN, a witness called by and sworn in behalf
451 of the plaintiff in rebuttal, testified as follows:

Direct-examination by Mr. PITNEY:

Q. Where do you reside?

A. Parsipanny, Morris Co.

Q. Near New Ogden?

A. Yes, sir; within about a mile or so.

Q. What is your business?

A. A mechanic properly; but I do not do any business particularly. I am a man of leisure, I have done my work.

Q. Living on the interest of these bonds I suppose?

A. Yes, sir; I suppose so.

Q. You are a millwright?

A. Yes, sir.

Q. How long have you lived in Parsipanny?

A. Sixty-seven years.

Q. I show you a bond No. 50 for $500, did you ever see that before?

A. Yes, sir; I have held it.

Q. How long have you had that?

A. I do not remember the date I received it; two of the coupons were paid by the bank in N. Y.

Q. How did you come by that?

A. Bought it of Richard Smith.

Q. How much did you pay him for it?

452 A. Eighty-five cents on the dollar. I gave him my check for it.

Q. Did you know or suspect at any time that there was anything wrong about the bond; any defence to it, or anything irregular about it?

A. Not in the least, sir. If I had I should not have bought it.

Q. You have heard what has been talked about here as to some irregularities about issuing the bonds, &c.?

A. What has appeared in the course of the trial.

Q. Had you any knowledge or suspicion of any of those things before you bought it?

A. Not in the least. I bought it in good faith. I am a neighbor of Mr. Smith's, and he came there and wanted to sell it.

Cross-examination by Mr. McCARTER:

Q. You have lived all the time, continuously, in Morris Co., in this State?

A. Yes, sir.

Q. Did you ever sell the bond?

A. No, sir.

Q. It is your's yet?

A. Yes, sir. I assigned it over to Mr. Halsey.

Q. Under the agreement produced here?

A. Yes, sir.

Q. You have made no other disposition of it?

A. No, sir.

453 Q. All the money that is got on it is to come to you?

A. Yes, sir; that is the understanding, sir, if it is ever collected.

EDWIN FORD, a witness called by & sworn on behalf of the plaintiff in rebuttal, testified as follows:

Direct examination by Mr. PITNEY:

Q. How old are you?

A. I am now in my eighty-first year.

Q. Where do you live?

A. Morristown.

Q. How long have you lived there?

A. All my life where I do now.

Q. What is your business?

A. Farming, principally.

Q. Do you ever put any money out?

A. I have sometimes.

Q. Loans on bond and mortgage, &c.?

A. Yes, sir.

Q. Government securities, &c.?

A. Yes, sir.

Q. I show you bonds numbered 51 & 124: No. 51 is for $500 & No. 124 for $100. See whether you have ever seen those before?

A. Yes, sir; I think those are the identical bonds that I had before.

Q. Had you handed them over to anybody?

454 A. I did.

Q. When you signed that agreement?

A. Yes, sir.

Q. Who did you hand them to?

A. Mr. Edmund Halsey.

Q. Where did you get those bonds?

A. Bought them of Richard Smith.

Q. What did you pay for them?

A. Eighty-five (85) cents on the dollar.

Q. Cash?

A. Part cash; part Government securities, United States.

Q. You held some Government securities?

A. Yes, sir.

Q. At the same time that you bought these two did you buy other additional bonds from him?

A. Yes, sir; I took them all supposing they were all equally good.

Q. And you paid part money and part Government securities.

A. Yes, sir.

Q. At that time did you have any suspicion that there was anything wrong about the bonds?

A. No, sir; not in the least.

Q. You are a little deaf?

A. No, sir; not much.

455 Q. Did you hear what they have been talking about here?

A. Yes, sir; pretty well.

Q. I did not think you could.

A. Yes, sir.

Q. Did you hear anything about the irregularities they have been talking about?

A. No, sir; I think they were regularly paid for two years, the coupons, and after that they were stopped.

Q. Did you ever hear there was anything wrong in the way they issued them?

A. No, sir.

Q. That the consent-papers were not right?

A. No, sir.

Q. Or that there had been some "hugger mugger" between the railroad company and the people of the township?

A. No, sir.

Q. You bought them in good faith?

A. Yes, sir.

Q. I will show now you bonds Nos. 122 & 123 for $100 each. Who is Caroline Schofield?

A. My sister.

Q. Widow of the old lawyer, James Schofield?

A. Yes, sir.

Q. Where does she live?

A. In Morristown.

456 Q. Did you make an investment for her?

A. Yes, sir.

Q. In these bonds?

A. Yes, sir; these and some others.

Q. These (referring) bonds?

A. I presume they are the same ones; could not identify exactly.

Q. Did you hand them to Mr. Halsey at the same time as you did the others?

A. She did or her son, I understood.

Q. You recollect buying them for him?

A. Yes, sir.

Q. What did you pay for them?

A. The same as for my own.

Q. And did you buy them at the same time as you bought your own?

A. About the same time.

Q. Did you pay cash?

A. Yes, sir; I think it was cash.

Q. Is your sister able to go out?

A. No, sir; she is not; I have a letter in my pocket.

Q. Well, that makes no difference. That is all.

Cross-examination by Mr. McCarter:

Q. At what rate did you pay for them?

A. 85 cents I think, all of them.

Q. You bought them of Richard Smith?

457 A. Yes, sir.

Q. And you signed this agreement to put them into the hands of Mr. Halsey?

A. I suppose I did, it is rather dim in my recollection now, but I think I did.

Q. (Paper shown to witness.)

A. Yes, sir; I signed that.

Q. Mr. Halsey has never paid you anything for the bonds?

Plaintiff's Counsel: There is no pretense of that in any case.

A. No, sir; I do not think he has.

Q. The money on the bonds is coming to you yet?

A. Well, I hope I shall get it some time.

Q. You look to get through the arrangement made with Mr. Halsey?

A. That is my hope.

Edmund D. Halsey, a witness heretofore called and sworn, being recalled on behalf of the plaintiff on rebuttal, testified as follows:

Direct examination by Mr. Pitney:

Q. You have already stated that your father owned these bonds which belong to yourself and to your sister Cornelia and to your brother Abraham?

458 A. Yes, sir; and to my sister, Mrs. Beach, $2,000 altogether.

Q. I will read the numbers: No. 3, of $1,000; Nos. 101 to 111, inclusive, of $100 each; and No. 115. Did or did not those bonds all belong to your father?

A. $2,000 of them belonged to my father.

Q. How did he come by them?

A. He bought them.

Q. Of whom did he buy them?

A. He bought them of J. B. Bassinger.

Q. At that time were you familiar with your father's affairs?

A. Yes, sir.

Q. He is dead, I believe?

A. Yes, sir.

Q. (Handing the witness a paper.) Is that the check?

A. Yes, sir. I can tell you the circumstances of the purchase.

Q. What I want to get at is whether or not you know what knowledge your father had of these matters of defect that have been set up here?

A. He had none whatever, except from me.

Q. He lived at Rockaway?

459 A. Yes, sir; my office was at Morristown; Mr. Bassinger came to me with these identical $2,200 of bonds and wanted to sell them; I said perhaps my father would buy them; I took the bonds to Rockaway; my father said he would take $2,000 of them, but would not take the $200; he gave me his check, which I hold in my hand—a check to my order for his use for $1,700.

Q. And that you transferred to Mr. ——.

A. (Interrupting.) That I transferred to Mr. Bassinger, and he handed it over to my brother, Samuel S. Halsey, to whom he owed money; and I took the $200 myself.

Q. Now, the extra $200 you bought yourself of Mr. Bassinger?

A. Yes, sir.

Q. What did you pay him for them?

A. Eighty-five cents on the dollar.

Q. Of your own money?

A. Yes, sir; and I transferred them three months after to Samuel S. Halsey.

Q. And your brother Abraham bought them?

A. Yes, sir.

Q. They are part of the $900 your brother Abraham owned before this transaction took place?

A. Yes, sir.

460 Q. At that time did your father have any knowledge or suspicion of any of these matters of defence that are set up here?

A. None whatever.

Q. Or your brother, to your knowledge?

A. None whatever.

Q. Was the purchase made in good faith, or otherwise?

A. It was.

Q. As an investment?

A. As an investment.

Q. There are $2,200 of bonds that may be called Halsey bonds?

A. Yes, sir.

Q. Of those, $2,000 were bought by your father and $200 by yourself?

A. Yes, sir.

Q. And then, by your father's death, they were divided among his heirs?

A. After father had bought those bonds he sent them back by me at Morristown, and I put them in my pigeon-hole in the Iron Bank, and they have been there ever since.

Q. Safe-deposit?

A. Yes, sir.

Q. And after his death they were divided among his next of kin?

461 A. Yes, sir; $500 were given to my sister Cornelia, but no change was made in the custody; I collected the interest, and gave her one-quarter & him the other three-quarters.

Q. And after your father's death the $1,500 he had was divided among five of his heirs, leaving Cornelia out?

A. Yes, sir; gave her a mortgage in place of it.

Q. And they were passed around and sold until your brother Abraham became the owner of $900 of them?

A. Yes, sir; shortly after that my sister, Mrs. Beach, and my brother Abe, of California, and myself bought the interest of Samuel S. Halsey, in all the property belonging to the heirs by this (producing) paper, and these passed with it.

Q. (Showing witness deed of assignment.) The signatures of Edmund D. Halsey, Heb. Marsh, Cornelia Halsey, & Mrs. Beach; what do you know about them?

A. They are all in the writing of the parties.

Q. Signed in your presence?

A. Well, I do not recollect about that, but I recognize the handwriting.

Q. The $200 your brother Sam got from you your brother
462 Abe got afterwards?

A. Yes, sir.

Q. The $200 of Mrs. Schofield—did you have them?

A. I put her name on the back of them.

Q. And you put Mr. Ford's on his?

A. Yes, sir.

Q. What do you know about the Lovell bonds; did you know Joseph Lovell?

A. I did.

Q. Were you his attorney?

A. He was a client of mine.

Q. When did he die?

A. I have got a certified copy of the probate of his will here; he died in Washington.

Q. Where did he live before he died for a great many years?

A. In Morristown, & about 1869 or 1870 he went to live with his only daughter in Washington; at the time he went there he left his securities with me, including these two bonds, which have been in my possession ever since.

Q. Who has been the owner of them since he died; who has had control of them?

A. Admiral Radford until the time he assigned them to Mr. Halsey.

Q. You recognized him as the owner?

A. Yes, sir.

463 Q. After Mr. Lovell's death?

A. Yes, sir.

Q. Did you have authority from Admiral Radford and his wife to put these bonds, so to speak, in this bill?

A. Yes, sir; I did.

Q. And signed the agreement by their authority?

A. I did, sir.

Q. Did Caroline Schofield sign that in your presence?

A. I don't recollect about that; I think her son took the agreement and had it signed and brought it back to me.

Q. Have you any means of ascertaining how Mr. Lovell came by those bonds? You say they were delivered by him to you when he lived in Morristown.

A. I was familiar with his business, and he bought them, I suppose, in my office; I cannot recollect who he bought them of.

By the COURT:

Q. About what year?
A. 1869 or early in 1870.

Further direct:

Q. Do you recollect how much he paid for them?
464 A. I think he paid eighty-five cents, but I cannot swear positively.
Q. Can you tell anything about what knowledge he had as to the origin of the bonds?
A. He knew nothing about them except as he inquired of us.
Q. Enquired of you?
A. Yes, sir; he did not buy them of us, but enquired.
Q. Do you recollect that?
A. Yes, sir; I remember his enquiring about the bonds.
Q. To what extent were those township bonds in the market in Morristown, and about that neighborhood?
A. They were being bought by investors.
Q. What was Mr. Lovell?
A. He was an old man over eighty, I think.
Q. Was he an investor?
A. A retired merchant.

Cross-examination by Mr. McCARTER:

Q. What knowledge have you as to the extent of knowledge Mr. Lovell had about those bonds?
A. I told you all I know about it.
Q. You said he did not know anything about it?
A. I simply know from the fact of his making the inquiry
465 of me that he did not know any more than I did.
Q. You judge of that because he enquired of you?
A. Yes, sir.
Q. You live in Rockaway?
A. Yes, sir.
Q. In Morris Co.?
A. Yes, sir.
Q. And have for some years back?
A. All my life.
Q. Where do Cornelia Halsey and Mrs. Susan Beach live?
A. Cornelia Halsey lives in Rockaway and Mrs. Beach in Dover, Morris Co. They have always lived in that county.
Q. Mrs. Schofield lives in Morristown?
A. Yes, sir.
Q. She is the widow of James G. Schofield?
A. I do not know about that?
Q. She has lived there for some years, has she not?
A. I believe so. I have no personal acquaintance with the lady.
Q. And Mr. & Mrs. Radford were the executors of Lovell?
A. Yes, sir.

466 EDWIN FORD, a witness heretofore called & sworn, being recalled on behalf of the plaintiff on rebuttal, testified as follows:

Direct examination (by Mr. PITNEY):

Q. Do you know the handwriting of Mrs. Schofield?
A. I have often seen it.
Q. Look at the signature of Mrs. Scofield to the combination agreement & see if you know it?
A. I have no doubt it is hers.

Mr. BALDWIN recalled.

By Mr. PITNEY:

Q. (Handing witness bond No. 50). Just see about the coupons that are on these, do you know who cut them off?
A. Yes, sir.
Q. And who?
A. I did.
Q. For what purpose?
A. To send to New York to be collected, it was returned uncollected & when it came back I pinned it on.

Cross-examined by Mr. McCARTER:

Q. You sent it to New York?
A. Yes, sir; I gave it to Mr. Marsh and he took it to New York.
Q. You do not know what he did with it?
A. No, sir.
467 Q. You cut them off and gave them to Mr. Marsh?
A. Yes, sir.
Q. And they were brought back?
A. Yes, sir; there is but one.
Q. That is all you know about it?
A. Yes, sir.

Mr. OGDEN recalled.

By Mr. PITNEY:

Q. (Showing witness bond No. 49.) Look at that bond and see if you know how the coupon got cut off?
A. I cut it off myself.
Q. For what purpose?
A. To send it to New York to get the money for it.
Q. How did you send it?
A. I gave it to Mr. Craig, of Morristown; he had collected money previously.
Q. The cashier of the bank?
A. Yes, sir.
Q. And it was not paid?
A. No, sir; it was not.

Q. How came it pinned fast?
A. I guess I pinned it to keep from losing it.

Not cross-examined.

Mr. MARSH recalled.

468 By Mr. PITNEY:

Q. Do you know how the coupons on your bonds came to be cut off?
A. No, I do not positively; I presume I have taken them off.
Q. What was your habit?
A. To cut them of and send them to New York through the bank.
Q. Were the last ones cut off paid—the last batch?
A. No, sir.
Q. Were they all sent to New York in the regular course of business?
A. I presume they were.
Q. And returned?
A. Yes, sir.

Cross-examined by Mr. McCARTER:

Q. You say you presume they were; do you know anything about it?
A. No, sir; I do not positively.

Redirect:

Q. You know what the regular course of business in the bank is?
A. Yes, sir.
Q. A great many such coupons as those were sent down?
A. Yes, sir; a great many transactions such as this are
469 going on every day on other bonds.

By Mr. McCARTER:

Q. Not many on these bonds?
A. No; we are not receiving any money on these just now.

EDMUND D. HALSEY recalled.

By Mr. PITNEY;

Q. The coupons are off some of the bonds that passed through your hands?
A. Yes, sir.
Q. Who cut them off?
A. I did.
Q. What did you do with them?
A. I put them in the bank for collection, and when they came back I put them on to the bonds again; I see I cut off two coupons instead of one; I tried it twice; I had charge of Mr. Lovell's bonds also, and did the same with them.

Not cross-examined.

Mr. FORD recalled.

By Mr. PITNEY:

Q. I show you the coupons of your bond No. 124. Dou you know how that came off?

470 A. I cut it off, I suppose the last one, and gave it to the Iron Bank to collect, and they came back.

Q. Not paid?

A. Not paid.

Q. What did you do with them then?

A. I suppose they were tacked on as you see.

Q. What is your recollection about it?

A. Well, the Iron Bank sent the- on and they came back.

Q. That was your regular course of business through the bank?

A. Yes, sir.

Not cross-examined.

DANIEL D. CRAIG, a witness called by and sworn on behalf of the plaintiff, on rebuttal testified as follows:

Direct examination by Mr. PITNEY:

Q. You are cashier of the Iron Bank?

A. Yes, sir.

Q. Without going all through these bonds, do you recollect the coupons of the New Providence bonds being deposited in the bank for collection?

A. Yes, sir; generally. I cannot identify particular ones.

471 Q. Do you know the gentlemen who have been sworn here?

A. Yes, sir.

Q. Dealers in the bank?

A. Yes, sir.

Q. Do you recollect what was done with those coupons by the regular course of business?

A. We sent them down and they were returned to us.

Q. You sent them down to your corresponding bank in the city?

A. Yes, sir; I think so. I will not be positive about that. I do not know but what I took one lot myself personally.

Q. What were done with the coupons that were not paid?

A. Returned to the parties who deposited them.

Q. In the regular course of business?

[A.] Yes, sir.

Cross-examination by Mr. MCCARTER:

Q. You had to do with some of these transactions & the payment of some of these moneys?

Objected to as not cross-examination.

Q. It has been testified to that some of the early coupons of these bonds were paid through you?

Objected to as above.
Objection sustained.

472 Mr. McCarter: Then I have no further questions.

Plaintiff rests.

A recess was then taken until 1.30 o'clock p. m.

After recess:

Daniel D. Craig, being recalled on behalf of the defendants, on rebuttal testified as follows:

Direct examination by Mr. McCarter:

Q. It has been testified to that through you some of the coupons were collected on the bonds. You were treasurer of the railroad company for a time, were you not?

A. Yes, sir.

Q. Were you treasurer of the West Line Railroad Co.?

A. Yes, sir.

Q. When?

A. From the spring of 1869 to the spring of 1870.

Q. Were you treasurer when the first coupons matured on the bonds issued on the 1st of January, 1869?

A. I think there were some few of the coupons taken off before the bonds were delivered to the company, but I remember receiving one payment on some of the bonds. 473

Q. From whom?

A. The American Exchange Bank of New York; wherever they were made payable.

Q. I want to ask you if you know who furnished the money that paid the first payment of the interest; whether the railroad Co. or who?

A. I do not know.

Q. You were not treasurer of the railroad company when the first payment was made?

A. Well, I do not know from what source it was taken.

Q. Do you not know, as treasurer of the railroad Co., that the payment that was made on those bonds was made not by the township but by the railroad Co.?

A. I could not say as to that.

Q. Was there not a contract between the company & the commissioners by which the company did agree to pay the first interest?

Objected to, as leading.

A. I heard——

474 Mr. Pitney (interrupting.) Speak of your own knowledge.

Q. Did you not know?

[A.] No, sir; I did not; I did not know anything about it.

Not cross-examined.

Jarvis Johnson, a witness heretofore called & sworn, being recalled by the defendant, on rebuttal testified as follows:

By Mr. McCarter:

Q. It has been testified to here that one or two payments were made on the coupons of the bonds. Do you know whether those payments were made by the township or by some other person?

A. They were made by the railroad Co.

Q. Did the township ever pay any interest on the bonds?

A. No, sir.

Not cross-examined.

Amos Potter, a witness heretofore called and sworn, being recalled on behalf of the defendant, on rebuttal testified further as follows:

Direct examination by Mr. McCarter:

475 Q. Can you tell us how many names of tax-payers appear on the assessment roll of 1867?

A. Yes, sir; 413.

Q. That is the total number of tax-payers on the assessment roll?

A. Yes, sir.

Q. Of those names, that is, of those on the assessment roll, how many, how many are on the first consent?

A. 144.

Q. Is that the whole number of those on the first consent or is that only those on the assessment roll?

A. That is the whole number.

Q. The whole number on the first consent is 144?

A. Yes, sir.

Q. Twenty-eight of those you told me, I think, were not on the assessment roll?

A. Thirty.

Q. Then there are only 114 of the tax-payers on the assessment roll that are on the first consent?

A. That is all.

Q. How many names are on the second consent?

476 A. Thirty-four (34).

Q. All told?

A. Yes, sir.

Plaintiff's Counsel: Your honor will understand us as objecting to this testimony as irrelevant and incompetent, and we pray an exception.

The Court: Certainly.

Q. How many of those are on the assessment roll?

A. Nineteen (19).

Q. Does the same names appear on both?

A. Two names are on both.

Q. Are they both included in the computations you have given?

A. Yes, sir.

Q. You were asked this morning if you had made a footing of the amounts of the real estate valuations contained in that book, and you said you had not. Let me call your attention to some footings on the back page of that book.

A. That is my footing; I had not observed it this morning.

Q. It was not made this morning for the purpose of this suit?

A. No, sir; it was made at the time the duplicate was made.

477 Q. Are those the footings of the several pages of the real estate valuations?

A. Yes, sir.

Q. Is that intended to be a footing of the whole value of the real estate?

A. Yes, sir.

Q. How much is it?

A. $823,500; that is, without the personal property.

Q. Then the whole valuation of the real estate in the assessment of 1867 is $823,500?

A. Yes, sir.

Q. You have not yet ascertained how much of that real estate is represented by the names on the consent?

A. No, sir.

Cross-examination by Mr. PITNEY:

Q. How many names did you say there are on the assessment roll?

A. 413.

Q. Are not a great many of those duplicates the same over again, as executor, guardian, &c.?

A. There may be as partners; for instance, a man by the name of Bard is assessed and then Bard & Co. is assessed. There

478 may be two or three instances of that kind perhaps.

Q. Are there not other instances?

A. I do not recollect.

Q. That includes the poll list, those that were taxed on their polls, does it not?

A. Yes, sir; includes all that are taxed.

Q. That includes those that were taxed on their poll only. When did you count them?

A. I counted them to-day. I presume I had counted them before.

Q. If a man was taxed as executor & guardian also, it was your habit to put each taxation by itself, was it not?

A. Yes, sir.

Q. If a man had two or three tracts lying separately, was it not your habit to tax him on both separately?

A. No, sir; not at that time.

Q. How do you know it was not?

A. It was not my habit, I say, at that time.

Q. Do you say you did not do it?

A. I do not think I did.

Q. How could you make your tax a lien on real estate if you did not tax each lot by itself?

A. Well, I supposed that was correct.

479 Q. I will give you one instance; here (referring), for instance, is J. C. Bunnell's estate, and then there is Jonathan Bunnell and David W. Bunnell. Now, who is J. C. Bunnell?

A. It was the estate of Jonathan C. Bunnell.

Q. He was dead?

A. Yes, sir.

Q. Was he a tax-payer?

A. His property was.

Q. Was he a tax-payer?

A. No, sir; not individually.

Q. Were not his two sons Johnathan & David W. Bunnell?

A. Yes, sir.

Q. Those were the ones that really owned the property?

A. There was property belonging to the estate — did not belong to them.

Q. It was a farm, was it not? Here (referring) it is, 918 acres; something like that. Now, it belonged to the two boys, did it not?

A. I presume not; I presume it belonged to the estate.

Q. Who is the estate; is there any*thing* such thing; could land belong to an estate?

480 A. I suppose it could if the estate was not settled.

Q. Have you looked through this book to ascertain just how many there are that are doubly numbered?

A. No; I have not.

Q. (Referring to book.) There are two years in here?

A. Yes, sir.

Q. What years?

A. 1866 & '7.

Q. Here (referring) is the estate of Vestter Roll, four acres of land. What does that mean, & was the estate of Vestter Roll a tax-payer?

A. The land was taxable and he did not live in the township.

Q. Now, here (referring) is the estate of Frederick Sohl. Who was that?

A. A German man.

Q. Was he alive?

A. No, sir; dead.

Q. You counted that, did you?

A. As a tax-payer; yes, sir.

Q. Here (referring) is the estate of George N. Slate. Did you count that?

A. I presume so.

Q. Was George N. Slate alive?

A. I presume not if it is taxed to an estate.

481 Q. Now, here is Daniel R. Valentine, Samuel R. Valentine, & D. R. & S. Valentine; how many tax-payers are there in those three names?

A. Three, I suppose.

Q. Daniel R. Valentine & Samuel S. Valentine & D. R. & S. Valentine; how many are there there?

A. Only two persons.

Q. Here (referring) is the estate of Jacob Vail; who is that?

A. That was property that lay in New Providence township; a wood lot.

Q. There was such a man as Jacob Vail?

A. If it is put down as an estate he was dead.

Q. Who are Lewis S. Vail & Sidney Vail; did not they own the wood lot?

A. They owned a house.

Q. Were they not the heirs of Jacob Vail?

A. No, sir.

Q. Who were his heirs?

A. They lived in Clarke township.

Q. Here (referring) is the estate of Moses Wilcox; what is that?

A. That was a wood lot that was in New Providence township that was owned by Moses Wilcox.

Q. When he died, what became of it?

482 A. His executors or whoever had charge of the property had to look after the taxes.

Q. But who owned the land; who was the tax-payer?

A. We looked to the land for the taxes.

Q. I know; but who was the owner?

A. Probably Wilcox's heirs or executors.

Q. Did they live in New Providence township?

A. No, sir; they did not live in the township.

Q. Can you tell how many cases of that kind there are here?

A. No, sir.

Q. You did not take any account of them when you went over the account, did you?

A. No, sir.

Q. You did not make any allowance for duplicates of that kind, if they are duplicates?

A. No, sir.

Q. Are there not some tax-payers put on here (referring) that were not tax-payers in the township at all, who turned out so to be? Here is the estate of Jonas W. Reeve; who was that?

483 A. I do not recollect; I could not tell without looking at the book; perhaps I might then.

Q. Who owned the estate?

A. I do not remember.

Q. There is David Ruckman, without anything against his name whatever, land or property or poll tax or anything; did you count him?

A. No, sir.

Q. Are you quite sure you did not count him?

A. I did not count him unless he is assessed with some property or poll tax.

Q. Are you quite sure that in going over this you did not?

A. Yes, sir; I was very particular.

Q. Here (referring) is the estate of David Oakley; how about that?

A. That was an estate in New Providence township.

Q. Who owned that?

A. I suppose his widow.

Q. Here (referring) is the estate of David Oakley; who owned that?

A. I suppose his son owned it—his family; he lived in Springfield township; that was a wood lot.

484 Q. Here is (referring) Abraham J. Kent's estate; what about that?

A. That was a house and lot, I do not remember the size, in New Providence township.

Q. Then there is Abraham Kent & Samuel Kent.

A. They were sons of Abraham Kent.

Q. Did they not own that house & lot?

A. No, sir.

Q. Who did?

A. I suppose it belonged to the estate and was not disposed of.

Q. Here (referring) is John Hays & Co.; what do you have to say about that?

A. John Hays & Co. owned a piece of property in New Providence township; I think they were attempting at that time to carry on brick making.

Defendants' counsel offered in evidence a supplement to the act chartering the Passaic Valley & Peapack Railroad Co., March 16th, 1869, giving the company power to mortgage.

Defendants rest.

Jarvis Johnson, recalled:

By Mr. Pitney:

485 Q. In getting the signatures to these consents did you ascertain whether or not any of these people had bought real estate since the last assessment?

A. No, sir.

Q. Your attention was not called to that?

A. No, sir.

Q. What principle did you apply to them?

A. I was informed they were people who owned property in the township.

Q. The question is, what knowledge you had about that when you got their signatures?

A. Well, it was generally understood, and I was informed to that effect by some of the principal residents of the township, some of the old residents, assessor, &c.

Q. In the first place, did you get any one who was not a tax-payer or did not own real estate?

A. Not that I know of, except on the supplementary lot.

Q. In the first batch I mean?

A. No, sir.

486 Q. Did you or not "strike" for those who had real estate?

A. I aimed for those who had property only.

Q. And in some way satisfied yourself at the time they were property owners in the township?

A. I went by the statements of other persons. I was not very well acquainted myself, being a new-comer to some extent.

Not cross-examined.

JOHN LITTELL, recalled:

By Mr. PITNEY:

Q. You got some of the signatures to the first consent?

A. Yes, sir.

Q. You were acquainted in the township, were you not, for a long time?

A. Yes, sir.

Q. What principle did you go on?

A. I tried to get those who were property owners and tax-payers.

Q. Did you satisfy yourself in any way on that subject?

A. I got those who were supposed to be, and who I believed to be.

487 Q. Do you know whether any of them were persons who had come in and bought land since the last assessment?

A. I do not recollect now.

Q. You could not recollect by looking over the list whether you recognized any of them as new purchasers?

A. I might in that case.

Q. (Handing witness paper.) Look over the list and see.

A. (Examining paper.) Theodore Blazier,—I do not recollect about him, whether he owned any property. I do not recollect any others.

Q. Look at Mr. Johnson's list?

A. Munn,—I do not recollect whether he was a property owner or not. There are quite a number here that I do not know, they were so far from me. I merely knew their names; and not having anything to do with the assessment of the town, I could not tell.

Q. What is the general result of the inspection of that list?

A. There are a few here I could not tell anything about. There is Anna S. Johnson & William S. Toms, Jr., Wilson and A. Trowbridge, I do not know anything about.

Q. There is one—S. A. Brackit.

488 A. I do not know anything about that. Eugene D. Bradley did not, to my knowledge, own any property; and George H. Milligan and William D. Bedford, I do not know if I have any knowledge of them or not. Frederick E. Curtiss: I do not think he owned any property. I am not positive. There is one Fender I do not know about; and there are some others of those that I do not know anything about—Nancy Townsend, Alexander Hamilton, Deborah W. Brant, ——— Marshall. I do not think Henry B. Rommell—well, I do not know him; and Thomas Meag I not know. I think the rest, as far as I can recollect, were property owners. I do not know anything about George W. Jarvis.

Not cross-examined.

JOHNATHAN C. BUNNELL, recalled:

By Mr. PITNEY:

Q. You were one of the commissioners?

A. Yes, sir.

Q. And got some of these signatures, did you not?

489 A. A few of them.

Q. William Littell—he was a brother-in-law of yours?

A. Yes, sir.

Q. And a property owner?

A. Yes, sir.

Q. Just look at all these names.

A. They were all property owners at that time.

Q. Do you know whether or not there were any transfers of the title of property between the assessments days?

A. Of these properties?

Q. No, of any in the township?

A. I do not know certainly about that, sir.

Q. Do you know of the bonders selling to Bassinger?

A. I do not, sir.

Q. Look at the other list & see if you know them to be property owners?

A. I cannot say — to these names, most of them; they were not in my part of the township.

Not cross-examined.

And thereupon, both parties having rested their cause, the defendants' counsel requested the court to charge the jury as follows:

490 (1.) That under the evidence in this cause the plaintiff is not a *bona fide* holder of any of the bonds in suit, except to the amount of nine hundred dollars which belonged to him in his own right.

(2.) That if the jury believed from the evidence that the consent paper filed in the office of the clerk of Union county, November 14, 1868, was not signed by a majority of the tax-payers of the township, or their legal representatives, appearing upon the assessment roll for 1867, or does not represent a majority of the landed property of such township (including lands owned by non-residents) appearing upon the said assessment roll; in either of those cases the bonds were illegally issued, and that such illegality constitutes a good defence as to all the bonds included in this suit, except the nine hundred dollars held by plaintiff in his own right.

(3.) That the commissioners had no authority under the act of the Legislature of New Jersey to issue bonds for a sum or sums 491 of money exceeding in the aggregate ten per centum of the valuation of the real estate and landed property of such township, as ascertained by the assessment roll thereof, for the year of 1867. That no consent of any number of tax-payers as representing any amount of landed property could confer such power on the commissioners, and if the amount authorized by the said consent to be issued, and actually issued, by the commissioners did exceed in amount ten per cent. of valuation, the consent and the action of the commissioners issuing these bonds were void and no recovery can be had on them in this action.

(4.) That to entitle the plaintiff to recover in this action he is bound to prove to the satisfaction of the jury that the bonds were registered in the office of the clerk of Union county before they were delivered to the railroad company in exchange for the stock of said company.

492 (5.) That the deed of assignment offered in evidence in this cause, by which all but nine hundred dollars in amount of the bonds sued on in this action purported to be assigned the plaintiff, could not confer on the plaintiff any right of action as to any of such bonds as were owned by persons who, at the time of such assignment, were citizens of the State of New Jersey and continued to be such citizens until this action was brought, and that no recovery can be had in this suit for the amount due on those bonds.

(6.) That no recovery can be had in this suit for the amount of any coupons that had matured and become payable more than six years before the commencement of the suit.

The court then charged the jury as follows:

NIXON, *District Judge.*

493 GENTLEMEN OF THE JURY: This suit is brought by the plaintiff to recover the amount due upon a number of municipal bonds alleged to have been issued by the township of New Providence in the county of Union.

The two questions in the case are—

(1.) Are the bonds sued on the bonds of the township?

(2.) Is the plaintiff entitled to recover the money due thereon?

In the political divisions of this State a township is a municipal corporation, and as such has no authority to issue bonds, except by express law.

The bonds in controversy were made and signed by three commissioners, Jonathan Bonnell, Jarvis Johnson, and John Littell. They claimed to have been acting for the inhabitants of the township of New Providence.

The first inquiry, then, will be whether any lawful power was conferred upon them to execute these bonds for the corporation.

494 It is found, if anywhere, in the act of the Legislature of New Jersey, approved April 9th, 1868, and which is entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railroad Company."

It is provided therein that on application in writing of twelve or more freeholders, residents of any township in either of the counties of Somerset, Morris, Essex, or Union, situate along the route of said railroad, it shall be the duty of the circuit court of the county wherein such township is situated, within ten days after renewing such application, to appoint under his hand and seal not more than three freeholders, residents of such township, to be commissioners for such township to carry into effect the purposes of the act, who shall hold their office respectively for the term of five years, and until others were appointed.

The second section makes it lawful for the commissioners thus appointed to borrow money on the faith and credit of their town-
ships, and to execute bonds therefor under their hands and
495 seals; in their issue the commissioners act as the agents of
the township, and the bonds signed by them are regarded in law as the bonds of the township.

The third section authorizes the commissioners in their discretion to dispose of such bonds or any part thereof to such persons or corporations, and upon such terms as they shall deem most advantageous for their township, but not for less than par, and the money that shall be raised by any loan or sale of bonds shall be invested in the stock of the Passaic Valley and Peapack Railroad Company for the purpose of building the said railroad. The commissioners, in the corporate name of the township, shall subscribe for and purchase the stock of the said railroad company to the amount they may have borrowed as aforesaid, and by virtue of such subscription or purchase of stock, upon receiving certificates for the amount, the
township shall acquire all the rights and privileges of stock-
496 holders of said company, and the commissioners are author-
ized to participate in and act in all the regular meetings of the stockholders, and may act as directors of the company if they shall be duly elected as such.

The fifth section makes it lawful for the railroad company to agree with the commissioners in behalf of their respective townships to pay the annual interest accruing on the bonds issued by the townships for the term of three years, or until the railroad shall be completed and in operation, and earning sufficient to pay dividends equal to the interest accruing on the bonds.

The defendant corporation is shown to be one of the townships along the route of the Passaic Valley and Peapack railroad, and hence was authorized by the act to borrow money and subscribe for the stock of the road. The proof seems to be that the three commissioners were appointed, whose duty it was to execute and issue
the bonds in behalf of the township; but under the provision
497 of the second section of the act they could not do it until cer-
tain preliminary matters were determined.

The written consent of the majority of the tax-payers of the township or their legal representatives appearing upon the last assessment roll, and who shall represent a majority of the landed property of such township (including lands owned by the non-residents) appearing upon the last assessment roll, must be first obtained, and such consent shall state the amount of money authorized to be raised in the township and that the same is to be invested in the stock of the railroad company. The signatures shall be proved by one or more of the commissioners. The fact that the persons signing the consent are a majority of the tax-payers and represent a majority of

the real property of the township shall be proved by the affidavit of the assessor of the township endorsed upon and annexed to such written consent. The consent and the affidavit are required
498 to be filed in the office of the clerk of the county in which the township is situated and a certified copy thereof in the town clerk's office of such township, and the same, or a certified copy thereof, shall be evidence of the facts therein contained and received as evidence in any court of the State. The performance of these things are the prerequisites for the issuing the bonds by the commissioners. Were they performed?

A paper is produced and offered in evidence which claims upon its face that they were. It was duly filed in the office of the clerk of the county of Union and a certified copy thereof deposited with the clerk of the township of New Providence. A number of names appear thereon. The three commissioners respectively prove, under oath, the signatures of the persons whose names are attached.

The assessor of the township signs an affidavit and annexes it to the paper, certifying that the persons signing the consent
499 constitute a majority of the tax-payers and represent a majority of the real property of the township.

But the defendant insists that the paper is not in fact true; that it falsely states that the persons signing are either a majority of the tax-payers or represent a majority of the real property of the township.

But all this evidence of the irregularity of the proceedings of the commissioners or of the township's officers is incompetent and cannot be admitted against the plaintiff in any case where the plaintiff is a *bona fide* holder for value of the bonds of the township.

The reason for this is obvious. The law never allows parties to profit by or take advantage of their own wrong where an act of the Legislature of a State authorizes a township to issue bonds upon certain conditions and the township afterwards issues them with a declaration upon their face that they have been issued in
500 pursuance of the said act, and they fall into the hands of a holder for value without notice of any defect or non-compliance with the provisions of the law by the agents or officers of the corporation who put them upon the market; the courts say to the township: "You shall not be permitted to set up the neglect or dereliction in duty of your own officers and agents against an innocent holder of your bonds, who has paid his money for them without notice of the defect."

It is, therefore, quite clear that the only question in the case is whether the plaintiff is a *bona fide* holder of the bonds in suit either in his own right or as to the legal trustee for others, and whether he or they had notice of the alleged defects in the proceedings preliminary to the execution and issue of the bonds.

The facts seem to be as follows:

The plaintiff resides in California, and by residence is entitled to come into the court to recover upon his bonds where the sum
501 in controversy amounts to five hundred dollars and upwards. Of the bonds in suit he is the owner of $900, of which his

father was the purchaser in his lifetime for value. The municipal
bonds have all the qualities of commercial paper payable to bearer,
and the title passes without assignment by mere delivery from hand
to hand. To prevent multiplicity of suits, and to divide and share
the large expense of a suit against the township, a number of bond-
holders have transferred to the plaintiff their bonds, and suit has
been brought upon the whole number in the name of the plaintiff.
The defendant insists that such an arrangement is against the law
and is a fraud upon the court, and that as to the bonds held by the
plaintiff in trust he is not a holder for value, and that the alleged
defects in issuing the bonds can be urged against the plaintiff, ex-
cept as to his $900. This question is not an open one here.
502 Judge McKennan ruled in the case of Curtis *vs.* The Town-
ship of Bernards, where the same arrangement was made,
that as it did not confer jurisdiction upon the court in the suit, and
as the defendant was not injured and a multiplicity of suits was
avoided, it was not against the policy of the law.

Now, gentlemen, in order to bring this matter into such a shape
as that the defendant in the case shall have the benefit of the wis-
dom of a superior court the counsel for the defendant has asked me
to charge as follows; and you will observe, gentlemen, that the
requests differ very much from the charge I have already made in
the case, but at the same time I am very glad that the counsel has
taken this course in order to get the case in proper shape for review
by a superier court. He first asks me to charge:
First. That under the evidence in this cause the plaintiff is
503 not a *bona fide* holder of any of the bonds in suit, except to
the amount of $900, which belonged to him in his own right.
I decline to charge that; it is different from what I have already
charged.

Second. "That if the jury believe from the evidence that the con-
sent paper filed in the office of the clerk of Union county, Novem-
ber 14, 1868, was not signed by a majority of the tax-payers of the
township or their legal representatives appearing on the assessment
roll for 1867, or does not represent a majority of the landed prop-
erty of such township (including lands owned by non-residents) ap-
pearing upon the said assessment roll, in either of those cases the
bonds were illegally issued and that such illegality constitutes a good
defence as to all the bonds included in this suit except the $900 held
by the plaintiff in his own right." In regard to that, gentlemen, I
am bound to say to you that by the decision of the supreme
504 court it is not at all a material question in this case if the
plaintiff is a *bona fide* holder of these bonds for value, and the
evidence being in that direction, I say to you that I decline so to
charge.

Third. "That the commissioners had no authority under the act of the Legislature of New Jersey to issue bonds for a sum or sums of money exceeding in the aggregate 10 per centum of the valuation of the real estate and landed property of such township as ascertained by the assessment roll thereof for the year 1867. That no consent of any number of tax-payers representing any amount of landed prop-

erty could confer such power on the commissioners, and if the amount authorized by the said consent to be issued, and actually issued by the commissioners, did exceed in amount 10 per centum of the valuation, the consent and the action of the commissioner issuing these bonds were void, and no recovery can be had
505 on them in this action."

That, also, is a question which cannot be raised here as against a *bona fide* holder of the bonds without notice of any illegality or irregularity.

"Fourth. That to entitle the plaintiff to recover in this action he is bound to prove to the satisfaction of the jury that the bonds were registered in the office of the clerk of Union county before they were delivered to the railroad company in exchange for the stock of said company."

My charge on that is this: it was the duty of the plaintiff to prove that the bonds were registered, but whether they were registered before or after their surrender to the company is not a question to be raised here to the prejudice of a *bona fide* holder without notice of any defects.

"Fifth. That the deed of assignment offered in evidence in this cause, by which all but $900 in amount of the bonds sued on in this action purported to be assigned to the plaintiff, could not con-
506 fer on the plaintiff any right of action as to any of such bonds
as were owned by persons who at the time of such assignment were citizens of the State of New Jersey and continued to be such citizens until this action was brought, and that no recovery can be had in this suit for the amount due on those bonds."

My charge on that point has been, and I now repeat it, that the plaintiff is entitled to recover on those bonds, provided the persons who had a financial interest in them were *bona fide* holders without notice of any defects.

"Sixth. That no recovery can be had in this suit for the amount of any coupons that had matured and become payable more than six years before the commencement of this suit."

My charge on this request is that none of the coupons declared on in this suit are barred by the statutes of limitations.

507 And thereupon the defendants' counsel prayed an exception to so much of the charge of the court as instructed the jury to the effect that all evidence showing that the assessor's affidavit to the "consent-papers" was not true, and that the persons signing such consent-papers were not either a majority of the taxpayers and do not represent a majority of the real property of the township, is incompetent, and cannot be admitted against the plaintiff in any case where plaintiff is a *bona fide* holder for value of the bonds of the township without notice, and that his said exception may be sealed, and it is sealed accordingly.

[L. S.] JNO. T. NIXON, *J.* [L. S.]

And defendants' counsel also prayed an exception to so much of the judge's charge as instructed the jury "that the only question in this case under this prayer is whether plaintiff is a *bona fide*

508 holder of the bonds in suit, either in his own right or as the legal trustee for others, and whether he or they had notice of the alleged defects in the proceedings preliminary to the execution and issue of the bonds," and that his said exception may be sealed, and it is sealed accordingly.

JNO. NIXON, *J.* [L. S.]

And defendants' counsel also prayed an exception to so much of the charge of the court as instructed the jury as follows:

"To prevent multiplicity of suits and to divide and share the large expenses of a suit against a township a number of bondholders have transferred to the plaintiff their bonds, and suit has been brought upon the whole number in the name of the plaintiff. The defendant insists that such an arrangement is against the law, and 509 is a fraud upon the court, and that as to the bonds held by the plaintiff in trust he is not a holder for value, and that the alleged defects in issuing the bonds can be urged against the plaintiff except as to his $900.

"This question is not an open one here. Judge McKennan ruled in the case of Curtis *vs.* The Township of Bernards, where the same arrangement was made, that as it did not confer jurisdiction upon the court in the suit, and as the defendant was not injured, and a multiplicity of suits was avoided, it was not against the policy of the law," and that his said exception may be sealed, and it is sealed accordingly.

JNO. T. NIXON, *J.* [L. S.]

And defendants' counsel also prayed an exception to the refusal of the judge to charge as requested by him that under the 510 evidence in this cause the plaintiff is not a *bona fide* holder of any of the bonds in suit except to the amount of $900, which belonged to him in his own right, and that his said exception may be sealed, and it is sealed accordingly.

JNO. T. NIXON, *J.* [L. S.]

And defendants' counsel also prayed an exception to the refusal of the judge to charge as requested by him: "That if the jury believe from the evidence that the consent paper filed in the office of the clerk of Union county November 14, 1868, was not signed by a majority of the tax-payers of the township, or their legal representatives, appearing on the assessment roll for 1867, or does not represent a majority of the landed property of such township (including lands owned by non-residents) appearing upon the said assessment roll, in either of these cases the bonds were illegally 511 issued, and that such illegality constitutes a good defence to all the bonds included in this suit, except the $900 held by plaintiff in his own right."

And that his said exception may be sealed, and it is sealed accordingly.

JNO. T. NIXON, *J.* [L. S.]

And defendants' counsel also prayed an exception to the refusal of the judge to charge as requested by him: "That the commissioners had no authority under the act of the Legislature of New Jersey to issue bonds for a sum or sums of money exceeding in the aggregate ten per centum of the valuation of the real estate and landed property of such township, as ascertained by the assessment roll thereof, for the year 1867. That no consent of any number of taxpayers representing any amount of landed property could 512 confer such power on the commissioners, and if the amount authorized by the said consent to be issued and actually issued by the commissioners did exceed in amount ten per centum of such valuation, the consent and the action of the commissioners in issuing these bonds were void, and no recovery can be had on them in this action."

And also to the charge of the judge, in reply to such request, that "That also is a question that cannot be raised here as against a *bona fide* holder of the bonds without notice of any illegality or irregularity," and that his said exception may be sealed, and it is sealed accordingly.

JNO. T. NIXON, *J.* [L. S.]

Defendants' counsel also prayed an exception to the refusal of the judge to charge as requested by him: That to "entitle the plaintiff to recover in this action, he is bound to prove to the satisfac- 513 tion of the jury that the bonds were registered in the office of the clerk of Union county, before they were delivered in exchange for the stock of said company to the railroad company," and also to the charge of the court, in reply to that request, that whether they were registered before or after their surrender to the company is not a question to be raised here to the prejudice of a *bona fide* holder without notice of any defects, and that the said exception may be sealed, and it is sealed accordingly.

JNO. T. NIXON, *J.* [L. S.]

Defendants' counsel also prayed an exception to the refusal of the judge to charge as requested by him: "That the deed of assignment offered in evidence in this cause by which all but $900 in amount of the bonds sued on in this action, purported to be assigned to the plaintiff, could not confer on the plaintiff any right of action 514 as to any of such bonds as were owned by persons who, at the time of such assignment, were citizens of the State of New Jersey, and continued to be such citizens until this action was brought, and that no recovery can be had in this suit for the amount of those bonds."

And also to the charge of the judge in reply to such request: "That the plaintiff is entitled to recover on those bonds, provided the persons who had a financial interest in them were *bona fide* holders without notice of any defect."

And that his said exception may be sealed, and it is sealed accordingly.

JNO. T. NIXON, *J.* [L. S.]

Defendants' counsel also prayed an exception to the refusal of the

judge to charge as requested on the sixth request to charge, and to
that part of his charge in which he instructed the jury that
515 none of the coupons declared on in this case were barred by
the statute of limitations. And that his said exception may
be sealed, and it is sealed accordingly.

JNO. T. NIXON, *J.* [L. S.]

516 *Copy of Original Consent above referred to, made from the Certified Copy thereof filed with the Township Clerk.*

We, the undersigned tax-payers of the township of New Providence, in the county of Union, in the State of New Jersey, do hereby consent that the commissioners appointed for said township to carry into effect the act of the Legislature of the State of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, & Union to issue bonds and take stock in the Passaic Valley and Peapack Railroad Company," approved April 9th, 1868, may, under the provisions of said act, borrow on the faith and credit of said township and execute bonds for the sum of eighty-five thousand dollars, (such sum not exceeding ten per centum of the valua-
tion of the real estate and landed property of such township,
517 ascertained by the assessment rolls thereof for the year 1867,)
which money is to be invested, in compliance with the provisions of said act, in the stock of said railroad company, and that the said commissioners may exercise full and complete powers for said township to carry into effect the purposes and provisions of said act.

Dated 24th July, 1868.

Jarvis Johnson. [L. S.]
Nathaniel Bonnel. [L. S.]
D. R. Valentine. [L. S.]
William G. Marsh. [L. S.]
F. W. Munn. [L. S.]
Ann M. Johnson. [L. S.]
Sam'l R. Valentine. [L. S.]
John Thorn. [L. S.]
Daniel Pike. [L. S.]
John T. Wilcox. [L. S.]
Samuel Badgley. [L. S.]
A. M. Cory, M. D. [L. S.]
John Huys & Co. [L. S.]
Dayton Bayley. [L. S.]
Jothum P. Bunnell. [L. S.]
C. B. Moses. [L. S.]
518 John R. Burnet. [L. S.]
William C. Jones. [L. S.]
John Wilson. [L. S.]
William Cory. [L. S.]
A. Trowbridge. [L. S.]
Jacob D. Mulford. [L. S.]
Philimon Dickenson. [L. S.]
Fred. E. Curtis. [L. S.]
M. F. Curtis. [L. S.]
John M. Wilcox. [L. S.]
A. H. Tompkins. [L. S.]
J. B. Maxwell. [L. S.]
G. A. Burnett. [L. S.]
Jno. W. Clark. [L. S.]
G. N. Walker. [L. S.]
W. S. Walker. [L. S.]
Nath. S. Samson. [L. S.]
C. S. Fredericks. [L. S.]
Dewitt Clinton Jones. [L. S.]
Geo. W. Nicholas. [L. S.]
Willoughby Powell. [L. S.]
G. W. Haines. [L. S.]
Jacob Fender. [L. S.]
S. P. Townsend. [L. S.]
Nancy Townsend. [L. S.]
Maxwell F. Drake. [L. S.]
Wm. Bartle. [L. S.]
Ann Bartle. [L. S.]
A. B. Whelpely. [L. S.]
Jonathan Muir. [L. S.]

Judson K. Grow. [L. S.]
Wm. Grow. [L. S.]

Eliza Tarboss. [L. S.]

Benjamin F. Potter. [L. S.]
Amos Potter. [L. S.]
Wm. Johnson. [L. S.]
I. O. Maxwell. [L. S.]
L. A. Brackill, (formerly Dalton's farm,) by Jarvis Johnson, att'y. [L. S.]
Eugene D. Bayley. [L. S.]
H. F. Burrell. [L. S.]
W. E. Samson. [L. S.]
Geo. H. Mulligan. [L. S.]
James Wm. Hozier. [L. S.]
Major Meckyle. [L. S.]
Wm. D. Bedford. [L. S.]
Philemon Tompkins. [L. S.]
David Badgley. [L. S.]
Matthias Doty. [L. S.]
Israel Doty. [L. S.]
Israel Doty, Jr. [L. S.]
519 John N. Doty. [L. S.]
James Young. [L. S.]
Henry Wilcox. [L. S.]
Edmond A. Wilcox. [L. S.]
John Brown. [L. S.]
William Smith. [L. S.]
John Bartle. [L. S.]

John Nain. [L. S.]
Alexander Hamilton. [L. S.]
his
Michael x Karstion.
mark.
Witness: J. Johnson. [L. S.]
Wm. H. Dean. [L. S.]
Deborah W. Brant. [L. S.]
John Marshall. [L. S.]

Thomas Meuz. [L. S.]
Henry B. Rommel. [L. S.]
M. M. Bonnel. [L. S.]
J. M. Morehouse. [L. S.]
William Stavers. [L. S.]
Matthias Asborn. [L. S.]
Mary Jane Marshall. [L. S.]
Wm. Kindall. [L. S.]
Elias R. Morehouse. [L. S.]
Henry C. Beach. [L. S.]
John Trowbridge. [L. S.]
R. Tooker. [L. S.]
Geo. B. Ayres. [L. S.]
Mary J. Prescott, per
Henry W. Prescott, att'y. [L. S.]
E. W. Starr. [L. S.]
Westcott Jarvis. [L. S.]
Geo. H. Jarvis. [L. S.]
John A. Coddington. [L. S.]
Isaac Meeker, Jr. [L. S.]
Charles P. Edwards. [L. S.]
Louisa Maria Weston. [L. S.]
James F. Weston. [L. S.]

STATE OF NEW JERSEY, } ss:
*Union County,* }

On the ninth day of November, A. D. eighteen hundred and sixty-eight, before me, the subscriber, one of the justices of the peace for the township of New Providence, in the county of Union, State of New Jersey, personally appeared Jarvis Johnson, to me well known to be one of the commissioners for the township of New Providence, in said county, to carry into effect the purposes and provisions of the act of the Legislature of the State of New Jersey, entitled "An act
to authorize certain towns in the counties of Somerset, Morris,
520 Essex, and Union to issue bonds and take stock in the Passaic
Valley and Peapack Railroad Company," approved April 9,
1868, who, being by me duly sworn according to law on his oath, saith: That he resides in said township and is one of the said commissioners; that he knows Jarvis Johnson, Nathaniel Bunnell, Dan'l R. Valentine, F. W. Munn, Ann M. Johnson, Sam'l R. Valentine, Dan'l Pike. John T. Wilcox, Sam'l Badgley, A. M. Cory, John Heuyes & Co., Dayton Badgely, Jothum P. Bonnell, C. B. Moses,

John R. Burnett, Wm. C. Jones, John Wilson, William Ceny, Jacob
P. Mulford, Philimon Dickinson, Wm. Turbute, Benjamin S. Potter,
Amos Potter, William Johnson, I. O. Maxwell, S. A. Brackit, H. F.
Bonnell, W. E. Sampson, James W. Hozier, Philemon Tompkins,
David Badgely, Matthias Doty, Israel Doty, Jr.; Israel Doty, John
W. Doty, James Young, Henry Wilcox, Edmund A. Wilcox, John
Brown, William Smith, John Bartell, M. J. Curtiss, John M. Wilcox,
A. A. Tompkins, J. B. Maxwell, G. A. Burnett, John W. Clark,
521 G. W. Walker, Nathan S. Sampson, Charles D. Fredericks,
Dewitt C. Jones, Geo. W. Nicholas, Willoughby Powell, George
W. Haines, S. P. Townsend, Maxwell F. Drake, William Bartol, A.
B. Whelpely, Johathan W. Muir, John Nain, Michael Kairson, Wm.
H. Dean, Deborah W. Brundt, John Marshall, Mary Jane Marshall,
William Kendall, M. Bonnell, I. A. Morehouse, William Stavers,
Matthias Osborne, E. R. Morehouse, Henry C. Beach, John Trowbridge,
R. Troker, Geo. B. Ayres, Mary I. Prescott, by H. W. Prescott,
att'y; E. W. Starr, Wolcott Jarvis, George W. Jarvis, John A.
Codington, Isaac Meeker, Jr.; Charles P. Edwards, Louisa Maria
Weston, and James F. Weston, the persons whose signatures are
witnessed by him signed to the foregoing consent, and knows them
to be persons who signed and executed the same after having been
fully informed of the contents thereof, and that he was present and
saw the said persons above named sign, seal, and deliver the
522 same as their voluntary act and deed for the uses and purposes
therein expressed, and that he, the said Jarvis Johnson,
subscribed his name to the same at the same time as an attesting
witness.

JARVIS JOHNSON. [L. S.]

Proved, sworn, and subscribed before me.

JOSEPH NOE,
*Justice of the Peace.*

We, the undersigned, taxpayers of the township of New Providence,
in the county of Union, in the State of New Jersey, do hereby
consent that the commissioners appointed for said township to carry
into effect the act of the Legislature of the State of New Jersey, entitled
"An act to authorize certain towns in the counties of Somerset,
Morris, Essex, and Union to issue bonds and take stock in the
Passaic Valley and Peapack Railroad Company," approved April 9,
1868, may, under the provisions of said act, borrow on the
523 faith and credit of said township and execute bonds for the
sum of eighty-five thousand dollars (such sum not exceeding
ten per centum of the valuation of the real estate and landed property
of such township ascertained by the assessment rolls thereof
for the year 1867); which money is to be invested, in compliance
with the provisions of said act, in the stock of said railroad company,
and that the said commissioners may exercise full and complete
powers for said township to carry into effect the purposes and
provisions of said act.

Dated June 30th, 1868.

| | | | |
|---|---|---|---|
| John Lettell. | [L. S.] | Agnes McNair. | [L. S.] |
| W. A. L. Ostrander. | [L. S.] | Casper Singer. | [L. S.] |
| John H. Winne. | [L. S.] | her<br>Mary x Wall.<br>mark | [L. S.] |
| David E. Trunley. | [L. S.] | John W. Hand. | [L. S.] |
| Peter W. Hill. | [L. S.] | Orudson Zurbur. | [L. S.] |
| Chas. Morgan. | [L. S.] | Lewis M. Frank. | [L. S.] |
| James Bennett. | [L. S.] | Charles G. Bruger. | [L. S.] |
| Christian Bentz. | [L. S.] | D. W. French. | [L. S.] |
| William Hamilton. | [L. S.] | Aaron Frazer. | [L. S.] |
| Anne Mercier. | [L. S.] | Martin Buckman. | [L. S.] |
| Victor Mercier. | [L. S.] | Samuel T. Day. | [L. S.] |
| W. Ginvier. | [L. S.] | J. M. Kendall. | [L. S.] |
| 524 B. Ruckman. | [L. S.] | Joseph Frazer. | [L. S.] |
| Benjamin Singer. | [L. S.] | Theodore Blazier. | [L. S.] |

STATE OF NEW JERSEY, } ss:
*Union County,* }

On the ninth day of November, A. D. eighteen hundred and sixty-eight, before me, the subscriber, one of the justices of the peace for the township of New Providence, in the county of Union and State of New Jersey, personally appeared John Littell, to me well known to be one of the commissioners for the township of New Providence, in said county, to carry into effect the purposes and provisions of the act of the Legislature of the State of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railroad Company," approved April 9, 1868, who being by me duly sworn according to law on his oath
525 saith: That he resides in said township, and is one of the said commissioners; that he knows John Littell, W. A. L. Ostrander, John H. Winne, David E. Townley, Peter W. Hill, Charles Morgan, James Bennett, Christian Bentz, William Hamilton, Anne Mercier, William Guiser, Benjamin Singer, Agnes McNair, Casper Singer, Mary Wall, John W. Hand, Louis M. Frank, Charles G. Binger, David A. French, Hanson Frazier, Martin Ruckman, Sam'l T. Day, J. M. Kendall, Joseph Frazer, the persons whose signatures are witnessed by him signed to the foregoing consent, and knows them to be persons who signed and executed the same after having been fully informed of the contents thereof, and that he was present and saw the said persons above named sign, seal, and deliver the same as their voluntary act and deed for the uses and purposes therein expressed, and that he, the said John Littell, sub-
526 scribed his name to the same at the same time as an attesting witness.

JOHN LITTELL. [L. S.]

Proved, sworn, and subscribed before me.

JOSEPH NOE,
*Justice of the Peace.*

We, the undersigned, tax-payers of the township of New Providence, in the county of Union, in the State of New Jersey, do hereby consent that the commissioners appointed for said township to carry into effect the act of the Legislature of the State of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railroad Company," approved April 9, 1868, may, under the provisions of said act, borrow on the faith and credit of said township, and execute bonds for the sum of eighty-five thousand dollars, such sum not exceeding 10 per centum of the
527 valuation of the real estate and landed property of such township, ascertained by the assessment rolls thereof for the year 1867, which money is to be invested, in compliance with the provisions of said act, in the stock of the said railroad company, and that the said commissioners may exercise full and complete powers for said township to carry into effect the purposes and provisions of said act.

Dated July 31st, 1868.

| | | | |
|---|---|---|---|
| Wm. Littell. | [L. S.] | Page Kidder & Co. | [L. S.] |
| J. H. Allen. | [L. S.] | Julius M. Rose. | [L. S.] |
| Daniel W. Day. | [L. S.] | John Fish. | [L. S.] |
| J. Bonnel. | [L. S.] | J. Edgar. | [L. S.] |
| C. E. Alton. | [L. S.] | Emily N. Hicks. | [L. S.] |
| C. R. Alton. | [L. S.] | John Van Blarcom. | [L. S.] |
| E. S. Pierce. | [L. S.] | Thomas Cook. | [L. S.] |

Edw. N. Fuller. [L. S.]

STATE OF NEW JERSEY, }
*Union County,* } *ss:*

On the ninth day of November, A. D. eighteen hundred
528 and sixty-eight, before me the subscriber, one of the justices of the peace for the township of New Providence, county of Union, and State of New Jersey, personally appeared Johnathan Bunnell, to me well known to be one of the commissioners for the township of New Providence, in said county, to carry into effect the purposes and provisions of the act of the Legislature of the State of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railroad Company," approved April 9, 1868, who being by me duly sworn according to law on his oath saith: That he resides in said township and is one of the said commissioners; that he knows William Littell, John H. Allen, Daniel W. Day, J. Bonnel, C. E. Alton, C. R. Alton, E. S. Pierce, Edward N. Fuller, Page, Kidder & Co., Julius N. Rose,
529 John Fish, J. Edgar, Emily N. Hicks, John A. Van Blarcom, and Thomas Cook, the persons whose signatures are witnessed by him signed to the foregoing consent; and knows them to be persons who signed and executed the same, after having been fully informed of the contents thereof; and that he was present and saw the said persons above named sign, seal, and deliver the same as their voluntary act and deed for the uses and purposes therein ex-

pressed; and that he, the said Jonathan Bunnell, subscribed his name to the same at the same time as an attesting witness.

JONATHAN BUNNELL. [L. S.]

Proved, sworn, and subscribed before me.

JOSEPH C. NOE,
*Justice of the Peace.*

STATE OF NEW JERSEY, } *ss:*
*Union County,* }

Be it remembered that on the ninth day of November, A.
530 D. eighteen hundred and sixty-eight, before me a justice of
the peace for the township of New Providence, in the county
of Union, and State of New Jersey, personally appeared John M. Wilcox, assessor of the township of New Providence, in said county, who being by me duly sworn according to law on his oath doth depose and say: That he is the assessor of the township of New Providence, in said county, and is now in the possession of said office and is discharging the duties thereof.

That he has read the foregoing written consent of the tax-payers of the said township of New Providence, in said county, and that he has also read and inspected the names thereto attached, and also the proof of the signatures thereto by the commissioners thereto annexed, and that he has also carefully inspected the assessment roll
of said township for the year eighteen hundred and sixty-
531 seven and knows the tax-payers of said township, and that
the persons signing the said written consent are a majority
of the tax-payers of such township and represent a majority of the real property of such township, and also that the said persons signing the said written consent are a majority of the tax-payers of such township appearing on the assessment roll of such township for the year eighteen hundred and sixty-seven, or their legal representatives, and that they do represent a majority of the landed property of such township appearing upon the said assessment roll of such township for the year eighteen hundred and sixty-seven.

JOHN M. WILCOX. [L. S.]

Proved, sworn, and subscribed before me.

JOSEPH C. NOE,
*Justice of the Peace.*

532 STATE OF NEW JERSEY, } *ss:*
*Union County,* }

I, Henry R. Cannon, clerk of said county, do hereby certify the foregoing instrument to be a true copy of the original one filed in the clerk's office of said county, Nov. 14th, 1868.

In testimony whereof I have hereunto set my hand and affixed the seal of said county, this 20th day of Nov., A. D. 1868.

[L. S.] HENRY R. CANNON, *Clerk.*

[5c. inter rev. stamp.]

533 Copy of supplemental consent above referred to, also made from certified copy filed in the township clerk's office.

We, the undersigned, tax-payers of the township of New Providence, in the county of Union, and State of New Jersey, do hereby consent that the commissioners appointed for said township to carry into effect the act of the Legislature of the State of New Jersey, entitled, "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railroad Company," approved April 9, 1868, may, under the provisions of said act, borrow on the faith and credit of said township, and execute bonds for the sum of eighty-five thousand dollars, (such sum not exceding ten per centum of the valuation of the real estate and landed property of each township,
534 ascertained by the assessment rolls thereof for the year 1867)
which money is to be invested in compliance with the provisions of said act, in the stock of said railroad company, and that the said commissioners may exercise full and complete powers for said township to carry into effect the purposes and provisions of said act.

Witness, JARVIS JOHNSON.

S. A. Allen. [L. S.]
Wm. H. Badgeley. [L. S.]
Israel B. Long. [L. S.]
Coleman M. Curtiss. [L. S.]
John Maxwell. [L. S.]
Oliver Hand. [L. S.]
David Totten. [L. S.]
535 John Hughes. [L. S.]
Benjamin Hand. [L. S.]
David T. King. [L. S.]
Frederick X. Mim, Jr. [L. S.]

J. A. McEachron. [L. S.]
Levi Clark. [L. S.]
Jacob T. Long. [L. S.]
Christian $\overset{\text{his}}{\underset{\text{mark}}{x}}$ Keller. [L. S.]
John W. Dickingere. [L. S.]
Elias Clark. [L. S.]
Cyrus A. Anderson. [L. S.]
John W. Hughes. [L. S.]
Charles Wrick. [L. S.]
Frederick Mim. [L. S.]
Henry C. Scott. [L. S.]

Witness, JARVIS JOHNSON.

A. P. Jones. [L. S.]
David Noe. [L. S.]
John Heart. [L. S.]
Edward C. Jones. [L. S.]
William C. Toms. [L. S.]
John Meson. [L. S.]

Samuel Pheasant. [L. S.]
James L. Badgeley. [L. S.]
Wm. Wolff. [L. S.]
Benjamin Reonyon. [L. S.]
Samuel C. Clark. [L. S.]
Moses M. Stevens. [L. S.]

NEW PROVIDENCE, 12*th April*, 1869.

The above signatures were severally affixed by the parties aforesaid whose names are hereto above signed in presence of—

JARVIS JOHNSON,
*Commissioner.*

536 STATE OF NEW JERSEY, } *ss:*
*Union County*, }

On the eighth day of November, A. D. eighteen hundred and sixty-nine, before me, the subscriber, one of the commissioners for taking the acknowledgements of deed, &c., for the State and county aforesaid, personally appeared Jarvis Johnson, to me well known to

be one of the commissioners for the township of New Providence in said county to carry into effect the purposes and provisions of the act of the Legislature of the State of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railroad Company," approved April 9, 1868, who, being by me duly sworn, according to law, on his oath saith that he resides in said township, and is one of the said commissioners;
537 that he knows S. A. Allen, A. McEachron, Wm. H. Badgeley,
Levi Clark, Israel B. Long, Jacob F. Long, Coleman M. Curtis, Christian Kellar, x his mark John Maxwell, John W. Dickinson, Olive Hand, Elias Clark, David Totten, Cyrus A. Anderson, John Hughes, John W. Hughes, Benjamin Hand, Charles Wrick, David V. King, Frederick Mim, Frederick Mim, Jr., Henry C. Scott, A. P. Jones, Samuel Pheasant, David Noe, James L. Badgeley, John Heart, William Wolff, Edward C. Jones, Benjamin Robinson, William C. Toms, Samuel C. Clark, John Wilson, and Moses Menus, the persons whose signatures are witnessed by him, signed to the foregoing consent, and knows them to be persons who signed and executed the same after having been fully informed of the contents thereof, and that he was present and saw the said persons above named sign, seal, and deliver the same as their voluntary act
538 and deed for the uses and purposes therein expressed, and
that he, the said Jarvis Johnson, subscribed his name to the same at the same time as an attesting witness.

JARVIS JOHNSON.

Proved, sworn, and subscribed before me.

S. H. BASSINGER,
*Commissioner.*

STATE OF NEW JERSEY, }
*Union County,* } *ss:*

Be it remembered that on this eighth day of September, A. D. eighteen hundred and sixty-nine, before me, Samuel H. Bassinger, commissioner for taking the acknowledgement of deed, &c., for the State and county aforesaid, personally appeared John M. Wilcox, assessor of the township of New Providence in said county, who, being by me duly sworn, according to law,
on his oath doth depose and say that he was the assessor of
539 the township of New Providence, in said county, and was, at
the time of signing thereof, in possession, and is discharging the duties thereof; that he has read the foregoing written consent of the tax-payers of the township of New Providence, in said county, and also similar consents filed on the twentieth day of November, 1868, and that he has also read and inspected the names thereto attached, and also the proof of the signatures by the commissioners thereto annexed, and that he has also carefully inspected the assessment roll of said township for the year eighteen hundred and sixty-seven and knows the tax-payers of said township, and that the persons (in) signing the said written consent, together with those who*se* signed the said consents filed on 20th day of Novem-

ber, 1868, are a majority of the tax-payers of such township
540 and represent a majority of the real property of such township; and, also, that the said persons signing the said several written consents are a majority of the tax-payers of such township appearing upon the assessment roll of such township for the year eighteen hundred and sixty-seven, or their legal representatives, and that they do represent a majority of the landed property of such township appearing upon the said assessment roll for the year eighteen hundred and sixty-seven.

JOHN M. WILCOX.

Prove-, sworn, and subscribed before me.

S. H. BASSINGER,
*Commissioner.*

STATE OF NEW JERSEY, } *ss:*
*Union County,* }

I, Henry R. Cannon, clerk of said county, and clerk of the circuit court and inferior court of common pleas of the county of
541 Union, do hereby certify that the foregoing is a true copy of the written consent and affidavit and all other proceedings filed in the office of the clerk of said county on the 14th day of September, A. D. 1869, in pursuance of and [in] compliance with the authority and requirements of the act of the Legislature of the State of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex, and Union to issue bonds and take stock in the Passaic Valley and Peapack Railroad Company," approved April 9, 1868.

In witness whereof, I have hereunto set my hand and official seal, this twenty-first day of September, A. D. 1869.

[L. S.] HENRY R. CANNON, *Clerk.*

*Copy of Assignment to Plaintiff above referred to.*

542 Agreement entered into this sixth day of May, A. D. eighteen hundred and seventy-nine, between those persons whose names are hereunder written, witnesseth:

Whereas the undersigned are severally the owners and holders of certain bonds issued by the township of New Providence, in the county of Union and State of New Jersey, in aid of the Passaic Valley and Peapack railroad, the amount of said bonds held by each being shown opposite to her or his signature;

And whereas said bonds, and the coupons thereof, are due and unpaid, and the undersigned are desirous of collecting the same, and anticipate litigation, difficulty, and expense in so doing, and therefore deem it expedient and mutually advantageous to combine together and share the expense of such litigation:

Now, therefore, we, the undersigned, do combine together for the purpose aforesaid, and we do hereby transfer and assign to Abra-
543 ham Halsey, of the city of San Francisco, in the State of California, all the bonds so due and held by us, with the coupons and interest due or to grow due thereon, as our trustee, and we do authorize

and instruct said Araham Halsey to proceed to take such legal advice and employ such legal counsel in the premises as he shall think best for our interest, and to bring such suit or suits or take such legal proceedings to enforce the payment of such overdue bonds, coupons, and interest as he shall be advised is proper and expedient; and we do agree to and with said Abraham Halsey, and each with the other, to indemnify and save harmless our said trustee in the premises from time to time and at all times, and to pay to him such sum or sums of money as often as he shall call for the same as shall keep him supplied with the funds necessary for the purpose aforesaid, such payments to be divided between us in proportion to the amount of said bonds so held by each of us. 544

And the said Abraham Halsey hereby accepts said trust and employment, and agrees to carry out the same to the best of his skill and ability.

ABRAHAM HALSEY,
By EDMUND D. HALSEY, [L. S.]
*His Att'y.*

$900.

H. O. MARSH, [L. S.] thirty-five hundred dollars.
EDMUND D. HALSEY, [L. S.] four hundred dollars.
CORNELIA V. W. HALSEY, [L. S.] five hundred dollars.
SUSAN E. BEACH, [L. S.] four hundred dollars.
EDWIN FORD, [L. S.] six hundred dollars.
CHAS. F. OGDEN, [L. S.] five hundred dollars.
WILLIAM RADFORD, Ex'r, [L. S.]
By E. D. HALSEY.
MARY L. RADFORD, Ex., [L. S.]
By E. D. HALSEY.
} Two hundred dollars.
JOHN L. BALDWIN, [L. S.] five hundred dollars.
CAROLINE A. SCOFIELD, [L. S.] two hundred dollars.
JAMES JACKSON, [L. S.] five hundred dollars.

Copies of receipts for bonds above referred to:

545 OFFICE OF THE PASSAIC VALLEY AND
PEAPACK RAILROAD CO.,
NEWARK, *Jan'y 22nd*, 1869.

Received from the commissioners of the township of New Providence the following bonds of said township at par under the resolution of the board of directors passed December 10th, 1868, calling for an installment of ten per cent. of the subscription of said township, viz: No-. 1 to 4, inclusive, 4 bonds of one thousand dollars each; No-. 41 to 46, inclusive, 6 bonds of five hundred dollars each; No-. 101 to 115, inclusive, fifteen bonds of one hundred dollars each, making in the whole twenty-five bonds and amounting to the sum of eight thousand five hundred dollars.

$8,500.00. For the treasurer,
BEVERLY C. SANDERS, *Secretary.*

PASSAIC VALLEY AND PEAPACK RAILROAD OFFICE,
546 No. 58 MONTGOMERY ST., JERSEY CITY, 22*nd Oct.*, 1869.

Received from the township of New Providence the following bonds of said township, viz:

| | |
|---|---|
| Nos. 5 to 8, inclusive, four bonds of $1,000 each | $4,000 00 |
| Nos. 47 to 52, inclusive, six bonds of $500 each | 3,000 00 |
| Nos. 116 to 130, inclusive, fifteen bonds of $100 each | 1,500 00 |

Making in all twenty-five (25) bonds, and amounting in all to eight thousand five hundred dollars, being the second installment on the subscription of the township of New Providence to the stock of the Passaic Valley and Peapack Railroad Company, the said bonds having been delivered to me by the commissioners on the 16th of July, 1869.

DAN. D. CRAIG,
*Treasurer Passaic Valley and Peapack Railroad Company.*

547 JERSEY CITY, *Oct.* 22, 1869.

Received from the commissioners of the township of New Providence the following bonds at par, viz:

| | |
|---|---|
| Nos. 9 to 16, inclusive, 8 bonds of $1,000 each | $8,000 00 |
| Nos. 53 to 64, inclusive, 12 bonds of $500 each | 6,000 00 |
| Nos. 131 to 160, inclusive, 30 bonds of $100 each | 3,000 00 |

Amounting in all to seventeen thousand ($17,000) dollars, being the third and fourth installments on the subscription of said township to the stock of the Passaic Valley and Peapack Railroad Company in accordance with the provisions of the act of the Legislature of the State of New Jersey, said bonds received by the hands of Jarvis Johnson, Esq.

DAN. D. CRAIG,
*Treasurer Passaic Valley and Peapack Railroad Company.*

Two installments, $17,000.

548 PASSAIC VALLEY & PEAPACK RAILROAD OFFICE,
No. 58 MONTGOMERY STREET, JERSEY CITY, *December* 24, 1869.

Received from the commissioners of the township of New Providence the following bonds of said township on account of subscription to the capital stock of the Passaic Valley and Peapack Railroad Company, viz: Nos. 17, 18, 19, three bonds of one thousand dollars each, amounting to three thousand dollars.

$3,000. DAN. D. CRAIG, *Treas.*

NEW PROVIDENCE, 1*st Jan.*, '70.

Received from Jarvis Johnson and John Littell, commissioners for
the township of New Providence, forty-eight thousand dollars in the
bonds of said township (at par) which, together with thirty-seven
thousand dollars in bonds heretofore delivered to the Passaic
549 Valley and Peapack Railroad Company, is in full for the sub-
scription of the township of New Providence to seventeen

hundred shares of the capital stock of the said railroad company under the provisions of an act of the Legislature of New Jersey, approved April 9th, 1868.

The above forty-eight thousand dollars in bonds being placed in my hands by said commissioners, to be held by me for the company, and paid out for the construction of said railroad through said township, as provided for in said act, and for no other purpose.

(Signed in duplicate) J. B. BASSENGER,
*Chief Eng. Passaic Valley and Peapack R. R. Co.*

550 Supreme Court of the United States.

THE INHABITANTS OF THE TOWNSHIP OF NEW PROVIDENCE, IN THE COUNTY OF UNION, Plaintiffs in Error,
*vs.*
ABRAHAM HALSEY, Defendant in Error.
} In Debt.

On error to the circuit court of the United States for the district of New Jersey. Of October term, in the year of our Lord one thousand eight hundred and eighty-two.

Afterwards, to wit, on the second Monday in October, in the same term, before the justices of the Supreme Court of the United States, at the capitol in the city of Washington, come the said The Inhabitants of the Township of New Providence, in the county of Union, by Thomas N. McCarter, their attorney, and say that in the record and proceeding aforesaid, and also in the matters recited and contained in the said bill of exceptions, and also in giving the verdict and judgment aforesaid, there is manifest error in this, to wit:

551 First. That the declaration aforesaid and the matters therein contained are not sufficient in law for the said Abraham Halsey to have his said action against the said The Inhabitants of the Township of New Providence, in the county of Union.

Second. There is also error in this, to wit, for that the said circuit court overruled the demurrer filed by the said plaintiffs in error to the thirteenth replication filed in said cause, and required the said plaintiffs in error to file a rejoinder thereto, when by the law of the land said circuit court should have given judgment in favor of the said plaintiff in error on the said demurrer.

Third. There is also error in this, to wit, for that the said judge before whom the said cause was tried, at and upon the aforesaid trial of the said issue so joined between the parties aforesaid, admitted parol evidence, to wit, of one James Jackson, to prove the contents of a letter written by him, and in refusing to overrule said testimony on the objection of the plaintiff in error.

552 Fourth. There is also error in this, to wit, for that the said judge on the said trial charged the jury that all evidence showing that the assessor's affidavit to the "consent papers" was not true, and that the persons signing such consent papers were not either a majority of the tax-payers, and do not represent a majority of the real property of the township, is incompetent, and can-

not be admitted against the plaintiff in any case where plaintiff is a *bona fide* holder for value of the bonds of the township without notice.

Fifth. There is also error in this, to wit, for that the said judge on said trial charged the jury "that the only question in this case under this prayer is, Whether plaintiff is a *bona fide* holder of the bonds in suit, either in his own right or as the legal trustee for others, and whether he or they had notice of the alleged defects in the proceedings preliminary to the execution and issue of the bonds?"

Sixth. There is also error in this, to wit, for that the judge on said trial charged the jury as follows:

"To prevent multiplicity of suits and to divide and share
553 the large expenses of a suit against a township a number of
bondholders have transferred to the plaintiff their bonds, and suit has been brought upon the whole number in the name of the plaintiff. The defendant insists that such an arrangement is against the law and is a fraud upon the court, and that as to the bonds held by plaintiff in trust he is not a holder for value, and that the alleged defect in issuing the bonds can be urged against the plaintiff, except as to his nine hundred dollars. This question is not an open one here. Judge McKennan ruled. in the case of Curtis *vs.* The Township of Bernards, where the same arrangement was made, that as it did not confer jurisdiction upon the court in the suit, and as the defendant was not injured and a multiplicity of suits was avoided, it was not against the policy of the law."

Seventh. There is also error in this, to wit, for that the said judge on said trial, although requested so to do by defendants' counsel, refused to charge the jury that under the evidence in this cause plaintiff is not a *bona fide* holder of any of the bonds in suit, except to the amount of nine hundred dollars, which belonged to him in his own right.

554 Eighth. There is also error in this, to wit, for that the said
judge on said trial, although requested so to do by defendants' counsel, refused to charge the jury "that if the jury believe, from the evidence, that the consent paper filed in the office of the clerk of Union county November 14, 1868, was not signed by a majority of the tax-payers of the township, or their legal representatives appearing on the assessment roll for 1867, or does not represent a majority of the landed property of said township (including lands owned by non-residents) appearing upon the said assessment roll, in either of these cases the bonds were illegally issued, and that such illegality constitutes a good defence to all the bonds included in this suit, except the nine hundred dollars held by plaintiff in his own right."

Ninth. There is also error in this, to wit, for that the said judge on said trial, although requested so to do by defendants' counsel, refused to charge the jury that "the commissioners had no authority under the act of the Legislature of New Jersey to issue bonds for a
sum or sums of money exceeding in the aggregate ten per
555 centum of the valuation of the real estate and landed property
of said township, as ascertained by the assessment roll thereof

for the year 1867; that no consent of any number of tax-payers representing any amount of landed property could confer such power on the commissioners, and, if the amount authorized by the said consent to be issued, and actually issued, by the commissioners did exceed in amount ten per centum of such valuation, the consent and the action of the commissioners in issuing these bonds were void, and no recovery can be had on them in this action;" and in that the said judge, in reply to such request, did charge the jury as follows: "That also is a question that cannot be raised here as against a *bona fide* holder of the bonds without notice of any illegality or irregularity."

Tenth. There is also error in this, to wit, for that the said judge on said trial, although requested so to do by defendants' counsel, refused to charge the jury "that, to entitle the plaintiff to recover in this action, he is bound to prove, to the satisfaction of the jury, that the bonds were registered in the office of the clerk of Union county
before they were delivered to the railroad company in ex-
556 change for the stock of said company;" and in that the said
judge, in reply to such request, did charge the jury "that whether they were registered before or after their surrender to the company is not a question to be raised here to the prejudice of a *bona fide* holder without notice of any defects."

Eleventh. There is also error in this, to wit, for that the said judge on said trial, although requested so to do by defendants' counsel, refused to charge the jury "that the deed of assignment offered in evidence in this cause, by which all but $900 in amount of the bonds sued on in this action, purported to be assigned to the plaintiff, could not confer on the plaintiff any right of action as to any such bonds as were owned by persons who, at the time of such assignment, were citizens of the State of New Jersey, and continued to be such citizens until this action was brought, and that no recovery can be had in this suit for the amount of those bonds;" and also in this, that the said judge, in reply to such request, charged the jury "that the plaintiff is entitled to recover on those bonds, provided the persons who had a financial interest in them were *bona fide*
holders without notice of any defect."

557 Twelfth. There is also error in this, to wit; for that the said
circuit court rendered a judgment in said action in favor of the plaintiff and against the defendants which, by the law of the land and the evidence in the cause, should have been rendered in favor of the defendants.

Thirteenth. There is also error in this, to wit, for that said circuit court rendered a judgment in said action in favor of the plaintiff and against the defendants, when, by the law of the land and the evidence in the cause, said circuit court should have dismissed said suit.

Fourteenth. There is also error in this, to wit, for that the said circuit court rendered a judgment in said action in favor of the plaintiff and against the defendants for the full amount due on all the bonds sued on in said cause, whereas if any judgment should have been rendered for plaintiff it should only have been for the amount due on the bond held by him in his own right.

Fifteenth. There is also error in this, to wit, for that the said judge on said trial, although requested so to do by defendants' 558 counsel, refused to charge the jury "that no recovery can be had in this suit for the amount of any coupons that had matured and become payable more than six years before the commencement of the suit;" and in that the said judge instructed the jury, in reply to such request, "that none of the coupons declared on in this case were barred by the statute of limitations."

And the said The Inhabitants of the Township of New Providence, in the County of Union, pray that the judgment aforesaid may be reversed, annulled, and altogether held for naught, and that they may be restored to all things which they may have lost by occasion of the said judgment.

THOMAS N. McCARTER,
*Att'y of Pl'ffs in Error, Newark, N. J.*

[Endorsed:] United States Supreme Court. The Inhabitants of the Township of New Providence, in the County of Union, pl'ffs in error, *vs.* Abraham Halsey, def't in error. Assignment of error. Thomas N. McCarter, att'y of pl'ff in error.

559 UNITED STATES OF AMERICA, } *ss:*
*District of New Jersey,* }

I, S. D. Oliphant, clerk of the circuit court of the United States for the district of New Jersey, do hereby certify the foregoing to be a true transcript of the judgment and proceedings in the said entitled cause as the same remains of record in my office.

In witness whereof, I have hereto set my hand and affixed the seal of the said court, at Trenton, in said district, this sixth day of October, A. D. 1882.

[The Seal of the U. S. Circuit Court, Dist. of New Jersey.]

S. D. OLIPHANT,
*Clerk United States Circuit Court, District of New Jersey.*

Endorsed on cover: New Jersey C. C. U. S. No. 148. The Inhabitants of the Township of New Providence, in the County of Union and State of New Jersey, plaintiffs in error, *vs.* Abraham Halsey. Filed 27th October, 1882.

117-336

Office Supreme Court U. S.
FILED.
JAN 8 1886
JAMES H. McKENNEY,
CLERK.

# SUPREME COURT OF THE UNITED STATES.

OCTOBER TERM, 1885.

**No. 148.**

THE INHABITANTS OF THE TOWNSHIP OF NEW PROVIDENCE, IN THE COUNTY OF UNION, AND STATE OF NEW JERSEY,
*Plaintiffs in Error,*

*vs.*

ABRAHAM HALSEY.

# BRIEF OF THOMAS N. McCARTER,

*For Plaintiffs in Error.*

Ward & Tichenor, Law Case Printers, 832 and 834 Broad St., Newark, N. J.

# Supreme Court of the United States.

THE INHABITANTS OF THE TOWNSHIP OF NEW PROVIDENCE IN THE COUNTY OF UNION, AND STATE OF NEW JERSEY,
*Plaintiffs in Error,*
*vs.*
ABRAHAM HALSEY.

*In Error to the Circuit Court of the United States for the District of New Jersey.*

## *BRIEF FOR PLAINTIFFS IN ERROR.*

### STATEMENT.

The writ of error in this case brings up for review the judgment of the Circuit Court of the United States for the District of New Jersey, in and by which Abraham Halsey, the plaintiff below and defendant here, a citizen of California, recovered a judgment on the verdict of a jury on the 26th of May, 1881, for:

| | |
|---|---|
| Debt | $15,777 18 |
| Costs | 204 70 |
| Total | $15,981 88 |

See *Record*, p. 113.

It appears from an abstract of the declaration that the action was founded on certain bonds alleged to have been issued by the plaintiffs in error in their corporate capacity, as follows, viz.:

| | |
|---|---|
| 4 Bonds of $1,000 each | $4,000 |
| 5 Bonds of 500 each | 2,500 |
| 17 Bonds of 100 each | 1,700 |
| Amounting to a principal sum of | $8,200 |
| Also on sundry interest warrants or coupons annexed to said bonds, amounting to | 3,444 |
| Total principal and original interest | $11,644 |

And for this sum, with the arrears of interest on the overdue interest, the judgment was recovered for the total sum above stated.

The declaration claimed that the bonds had been issued in pursuance, and under the authority, of an act of the legislature of New Jersey, entitled "An act to authorize certain towns in the counties of Somerset, Morris, Essex and Union, to issue bonds and take stock in the Passaic Valley and Peapack Railroad Company," approved April 9th, 1868; a copy of which act is appended hereto.

To this declaration defendants pleaded numerous pleas, among which, the fourth to the tenth inclusive, and the twelfth, averred that in various respects the bonds sued on had been illegally issued, and without a compliance with the statutory requirements, and each of said pleas averred that plaintiff had notice of such statutory defects before he purchased the bonds. (*Record*, pages 102 to 105.)

To these pleas the plaintiff filed a special replication numbered "13" in the *Record*, (page 108,) in which it was alleged that the township commissioners sold, negotiated and delivered each of the bonds, for a valuable consideration received by them, to divers innocent purchasers thereof, and that they came to the hands of such innocent purchasers in the due and usual course of trade for a valuable consideration, paid therefor in open market, and without any notice or knowledge of any of the several matters in the said pleas set forth, specifying as follows:

Bonds Nos. 3, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 115, were so purchased in the open market for a valuable consideration by Samuel B. Halsey of the county of Morris.

Bonds Nos. 6, 7, 8 and 48, were in like manner purchased by John Marsh of the place last mentioned.

Bond No. 49 was so purchased by Charles F. Ogden of the same place.

Bond No. 50 was purchased by John L. Baldwin of the same place.

Bonds Nos. 51 and 124 were purchased by Edwin Ford of the same place.

Bonds Nos. 127 and 128 were purchased in like manner by Joseph Lovell.

Bonds Nos. 122 and 123 were purchased by Caroline E. Schofield of the same place.

Bond No. 46 was purchased by James Jackson..

And the replication then alleged that the said Samuel B. Halsey, John Marsh, Charles F. Ogden, John L. Baldwin, Edwin Ford, Joseph Lovell, Caroline E. Schofield and James Jackson had not, at the said time, &c., or at any other time, nor had either of them any notice or knowledge whatever, of the matters in said plea set forth, or any of them, or any part thereof, and the replication concluded with the following allegation:

"And afterwards, to wit, on the day and year last aforesaid, the said several bonds, or writings obligatory, were, by the said several persons last above mentioned, so being the holders and owners thereof, duly assigned and transferred to this plaintiff, who then and there became, and was, and ever since hath continued to be the lawful owner and holder thereof."

The enumeration of the bonds thus alleged to have been so purchased and assigned, included all the bonds declared on.

To this replication defendants below filed a general demurrer, (p. 110.)

This demurrer was argued and was overruled by the Court, and defendants were required to rejoin to the replication, (p. 111.)

Error is assigned on this ruling of the Court below by the second assignment of errors, (p. 210.) The opinion, delivered by Judge NIXON on overruling the demurrer, is reported in 3 Federal Reporter, 364.

In addition to the above issue of law, the following issues of fact, among others, were presented by the pleadings.

By the fourth plea defendants averred that John M. Wilcox, in the declaration named as assessor of the township of New Providence in 1867, was not assessor of the township in that year, nor until April, 1868, and was not able or competent lawfully to make the affidavit required by the act, as a foundation for issuing the bonds, and that plaintiff had notice of it before he bought his bonds, (p. 102.)

To this plaintiff, by his second replication, averred that Wilcox, at the said time, when, &c., was the assessor of the township of New Providence, and was, in all respects, competent to make the affidavit in the declaration and fourth plea mentioned, concluding to the country, (p. 106.)

By the fifth plea defendants alleged that the supposed consent in writing in the declaration mentioned purporting to state the amount of money authorized to be raised in the township, was not before the making and delivery of the bonds, or any of them, or at any other time, signed by a majority of the taxpayers in said township, of which plaintiff, before his purchase of his bonds, had notice, (p. 102.)

To this plaintiff, by his third replication, alleged that the consent paper in his declaration mentioned, was at the said time when, &c., signed by a majority of the taxpayers of the township, concluding to the country, (p. 106.)

By the sixth plea defendants averred that said consent paper was not signed by the representatives of a majority in value of the real estate situate in said township, nor did the persons whose names purported to be signed thereto constitute a majority of the taxpayers of the township appearing on said asssessment roll for 1867, with a like averment of notice to plaintiff, (p. 103.)

To this plea plaintiff, by his fourth replication, alleged that said consent paper was signed by the representatives of a majority in value of the real estate of the township, and the persons whose names were signed thereto did constitute a majority of the taxpayers of said township appearing on the asssessment roll for 1867, and did represent a majority of the landed property of said township appearing on said assessment roll, concluding to the country, (p. 106.)

By the eighth plea defendants alleged that the affidavit of John M. Wilcox in the declaration mentioned was not true; that the persons whose names were signed to consents referred to in the said affidavits, did not in the year 1867 or at any time after that, constitute a majority of the taxpayers of the township, and did not represent a majority in value of the real property in said township; nor did they constitute a majority of the taxpayers of the township appearing on the assessment roll for 1867, averring notice to plaintiff as before, (p 103–4.)

To this plea plaintiff replied by his sixth replication, taking issue on all its averments except that of notice, and concluding to the country, (p. 107.)

Plaintiff also, by his seventh additional replication to the fourth, fifth, sixth, seventh and eighth pleas, denied all knowledge or notice of the matters set up in those pleas before he purchased the bonds, concluding to the country, (p. 107.)

By the ninth plea it was averred that the bonds were not registered in the Union county clerk's office, nor were the words "registered in the Union county clerk's office," printed or written across the face of the bonds, and attested by the county clerk's signature, before they were negotiated, sold, transferred or delivered, nor did said commissioners ever register said bonds, (p. 104.)

To this plea plaintiff, by his eighth replication, alleged that all the bonds were, before the commissioners sold or negotiated the same, duly registered in the county clerk's office, and that the words, "registered in the county clerk's office," and certified by the county clerk, were printed across the face, concluding to the country, (p. 108.)

After the demurrer to the thirteenth replication had been overruled and defendants directed to plead over, they filed a rejoinder to said thirteenth replication, averring among other things, that each of the persons who were in said thirteenth replication alleged to have assigned said bonds to plaintiff, was at the time he or she so assigned the bonds, a citizen of the State of New Jersey, and joining issue on the other averments of the replication, (pp. 111, 112.)

By the bill of exceptions, commencing on page 113 of the Record, it appears that the cause came to trial before District Judge NIXON, on the 24th of May, 1881, and ended in the verdict and judgment thereon, above stated.

On the trial of the cause it appeared by the evidence of Edmund D. Halsey, a brother of the plaintiff, that the latter only claimed to be owner in his own right of nine hundred dollars in amount of the bonds in suit, of which he acquired $300 as distributee of the estate of his father, Samuel Halsey. He bought $100 of Samuel Halsey, another brother, resident in New Jersey, and $300 of a brother Joseph J. Halsey, a resident of Virginia, thus making $700. The witness, Edmund D. Halsey, also testified that plaintiff bought $200 more of Samuel Halsey, thus making up the $900. (Record, p. 120.)

There is no evidence how much plaintiff paid for the bonds which he is said to have bought from his brothers. There is evidence that he never had any of them in his possession, but that they had remained in possession of the witness, E. D. Halsey, from 1869 up to the commencement of the suit, (Record, p. 122,) and all that is said about his having paid anything for them is in the testimony of E. D. Halsey, on page 124, when in reply to the question: "Did he pay anything for those bonds?" he replied: "Yes, sir."

As to the remaining bonds on which the declaration and judgment are founded, viz: $7,300 in amount, (exclusive of interest); it appeared by the evidence of the same witness (E. D. Halsey,) that these last named bonds were assigned to plaintiff by an instrument of writing which is found on pages 207 and 208 of the Record, and which is as follows:

"Agreement entered into this sixth day of May, A.D. eighteen hundred and seventy-nine, between those persons whose names are hereunder written, witnesseth:

"Whereas, the undersigned are severally the owners and holders of certain bonds issued by the township of New Providence, in the county of Union and State of New Jersey, in aid of the Passaic Valley and Peapack Railroad, the amount of said bonds held by each being shown opposite to his or her signature;

"And whereas, said bonds and the coupons thereof are due and unpaid, and the undersigned are desirous of collecting the same, and anticipate litigation, difficulty and expense in so doing, and therefore deem it expedient and mutually advantageous to combine together and share the expense of such litigation;

"Now, therefore, we, the undersigned, do combine together for the purpose aforesaid; and we do hereby transfer and assign to Abraham Halsey, of the city of San Francisco, in the State of California, all the bonds so due and held by us, with the coupons and interest due or to grow due thereon, as our trustee, and we do authorize and instruct said Abraham Halsey to proceed to take such legal advice, and employ such legal counsel in the premises as he shall think best for our interest, and to bring such suit or suits, or take such legal proceedings to enforce the payment of such overdue bonds, coupons and interest, as he shall be advised is proper and expedient; and we do agree to and with said Abraham Halsey, and each with the other, to indemnify and save harmless our said trustee in the premises, from time to time, and at all times, and to pay to him such sum or sums of money as often as he shall call for the same, as shall keep him supplied with the funds necessary for the purpose aforesaid, such payments to be divided between us in proportion to the amount of said bonds so held by each of us.

"And the said Abraham Halsey hereby accepts said trust and employment, and agrees to carry out the same to the best of his skill and ability.

"ABRAHAM HALSEY,
By EDMUND D. HALSEY, $900, [L.S.]
*his Attorney.*

"H. O. Marsh, [L.S.] thirty-five hundred dollars.
"Edmund D. Halsey, [L.S.] four hundred dollars.
"Cornelia V. W. Halsey, [L.S.] five hundred dollars.
"Susan E. Beach, [L.S.] four hundred dollars.
"Edwin Ford, [L.S.] six hundred dollars.
"Chas. F. Ogden, [L.S.] five hundred dollars.
"William Radford, Ex'r., [L.S.] by E. D. Halsey, two hundred dollars.
"Mary L. Radford, Ex., [L.S.] by E. D. Halsey, two hundred dollars.
"John L. Baldwin, [L.S.] five hundred dollars.
"Caroline A. Schofield, [L.S.] two hundred dollars.
"James Jackson, [L.S.] five hundred dollars."

It also appeared by the evidence of the same witness, E. D. Halsey, that the arrangement above made was proposed by him; that he drew a form of the assignment, which he proposed to have executed, and sent it by mail to his brother in California, the plaintiff, who returned it with his approval, and on that authority he acted as his brother's attorney in executing the paper. He also states, on page 123, that all the object of this arrangement was to bring suit on the bonds. It was admitted on the trial, (p. 124,) that plaintiff paid nothing for the bonds, which were the subject of the above arrangement.

It did not appear with certainty when the paper was executed by the several signers thereto, whether before or after the commencement of the suit, except in the case of James Jackson, who testified that he signed it on the morning of the day on which the trial commenced, (p. 166.)

It further appeared that each one of the persons who executed the assignment was at its date a citizen and resident of New Jersey, and continued to be until the trial, except, perhaps, William and Mary Radford, as executors of Joseph Lovell, who owned $200 of the bonds, who resided in Washington city at the time of the trial; the evidence left it uncertain whether they resided in Washington or Morristown, N. J., when the assignment was executed, or the suit commenced.

The total issue of bonds for New Providence township was $85,000, issued as follows:

$8,500 issued Jan. 22, 1869, (p. 208.)
8,500 issued Oct. 22, 1869, (p. 209.)
17,000 issued Oct. 22, 1869, (p. 209.)
3,000 issued Dec. 24, 1869, (p. 209.)
48,000 issued Jan. 1, 1870, (p. 209–10.)

$85,000

By a comparison of the numbers of the bonds, as mentioned in the receipts and those declared on, it appears that bonds Nos. 3, 46, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111 and 115, $2,700 in all, were parts of the first issue on January 22, 1869.

All the other bonds in suit were parts of the second issue of October 22, 1869.

It further appeared that the total valuation of the real estate of the township as found on the assessment roll for 1867, was $823,500, (Rec., p. 186,) showing that the issue of bonds was in excess of ten per cent. of such valuation.

It also appeared that there were 413 names of taxpayers on the assessment roll of 1867, (p. 185.)

That the commissioners, before issuing the first set of bonds, had on November 14, 1868, filed in the office of the clerk of the county of Union, three sets of "consent papers," expressing the consent of the signers to the issue of the bonds, which together included only 114 of the taxpayers who were on the assessment roll for 1867, (p. 185,) accompanied by the affidavit of John M. Wilcox, dated November 9, 1868, testifying that he was the assessor of the township of New Providence, and that the names attached to the consent papers were a majority of the taxpayers of the township appearing on the assessment roll for 1867, and represent a majority of the landed property of said township appearing on said assessment roll. Afterwards being advised by counsel that the first consent papers were imperfect, because they did not contain a majority of the taxpayers on the assessment roll of 1867, and that the consent should be signed by a majority of the taxpayers, whether land owners or not, (testimony of Jarvis Johnson, p. 139,) an attempt was made to procure a second consent.

This second or supplemental consent contains only 34 names, and with the 114 names of taxpayers did not still make a majority of those on the assessment roll.

The signatures to the supplemental consent were, on the 8th of November, 1869, proved by Jarvis Johnson, one of the township commissioners, who was also a director of the railroad company, by an affidavit dated November 8, 1869, and on September 8, 1869, John M. Wilcox, *who was not then the assessor of the township*, made an affidavit to the effect that he had examined this and the previous consents, and that the two together composed a majority of the taxpayers, and represented a majority of the landed property of the township on the assessment roll of 1867. (Record, p. 206.)

Mr. Wilcox was examined as a witness and testified (p. 151,) that he was assessor in 1868, but not in 1867 or 1869; that he made the affidavits on the representation of the agents of the railroad company, who presented the papers to him, that they were all right, (p. 152.) He treated it as a mere formality, and that he did it to conform to the law, (p. 154.) He never compared the names on the consents with the assessment roll, or counted the names or made footings, but relied on the statements made by the agents of the railroad company, (p. 153.) He had not even read over all the names, (p. 155.) He further testifies (p. 158,) that the signers of the consents do not constitute a majority of the taxpayers of the township on the assessment roll of 1867.

It further appeared that none of the bonds were sold or negotiated by the commissioners for money, nor did they borrow any money thereon, but they were delivered to the railroad company in exchange for a subscription made by the commissioners, to a like amount of the stock of the railroad company, which was issued by the company to them for the township; that no dividend or other value of any kind was ever realized on the stock by the township, but the road, after about ten miles of it had been built, was sold out under a mortgage for $3,000,000, which was not authorized by law, when the first consent papers were signed, or when the first issue of bonds was made, but was executed in pursuance of legislative authority enacted March 16, 1869.

When the bonds were delivered to the railroad company they had not been registered in the clerk's office. After they had been received by the railroad company they were taken by the secretary of the company to the clerk's office and registered in the manner required by the act.

(Evidence of Beverly C. Sanders, pp. 127, 128.)

On the facts above stated the plaintiffs in error contend:

## I.

The plaintiff was clearly not entitled to recover in the action on any of the bonds except the $900 claimed to have been held by him in his own right.

The facts of this case are so precisely similar to the case of *Bernards Township* vs. *Stebbins, Executor*, 109 U. S., 341, that a reference to that case is all that is necessary to sustain this point.

The Judge on the trial was requested to charge the jury:

(1.) That under the evidence in the cause the plaintiff is not a *bona fide* holder of any of the bonds in suit, except to the amount of $900, which belonged to him in his own right. (Record, p. 191.)

(5.) That the deed of assignment offered in evidence in this cause, by which all but $900 in amount of the bonds sued on in the action, purported to be assigned to plaintiff, could not confer on the plaintiff any right of action as to any of such bonds as were owned by persons who at the time of such assignment were citizens of the State of New Jersey, and continued to be such citizens until this action was brought, and that no recovery can be had in this suit for the amount due on these bends. (Record, p. 192.)

The Judge declined to charge in accordance with such requests, but charged to the contrary. (Record, p. 195; also 196.)

To these parts of the charge plaintiffs in error took exceptions. (See Exceptions, pp. 197, 198.) They are covered by the sixth, seventh and eleventh assignments of error. (pp. 211, 212.)

See also *Farmington* vs. *Pillsbury*, 114 U. S., 138; *Detroit* vs. *Dean*, 106 U. S., 537, 541.

## II.

The suit should have been entirely dismissed.

This point was first raised by the demurrer to the thirteenth replication, which was founded on the idea that it appeared by the record that the suit was in contravention of the act of March 3, 1875, § 5, which enacts:

"That no circuit or other court shall have cognizance of any suit founded on contract in favor of an assignee, unless a suit might have been prosecuted in such court to recover thereon, if no assignment had been made, except in cases of promissory notes, negotiable by the law merchant, and bills of exchange."

By reference to the Judge's opinion, it will be seen that this demurrer was overruled on the ground that these bonds being payable to bearer, each was a contract directly with each successive holder, who might sue thereon without relying on any previous assignment, but might, as it were, skip over all previous assignments, and treat the bond as a contract made directly with him as bearer and substituted payee. The learned judge quoted in support of his view, the opinion of Justice STORY in *Bullard* vs. *Bell*, 1 Mason, 252, in which it is said: "A note payable to bearer is often said to be assignable by delivery, but in correct language there is no assignment in the case; it passes by mere delivery, and the holder *never makes any title to or through any assignment, but claims merely as bearer, &c.*"

In an ordinary case it will not be denied that such is a correct intrepretation of the statute, and its correctness has since been recognized by this Court, by holding that negotiable municipal bonds are within the exception of the act in favor of promissory notes negotiable by the law merchant.

But this is not an ordinary case, for by the case presented by the 13th replication and the pleas to which it replied, plaintiff was compelled to confess that he could not recover on his title as mere bearer, but in the language of Judge STORY, he makes title through an assignment. A brief reference to the pleadings will make this distinction manifest.

The pleas allege certain failures to comply with the requirements of the act in issuing the bonds, which to a buyer with notice, would be fatal to his recovery. They also allege that plaintiff had notice of these defects before he bought the bonds. This last allegation was not denied by the replication, but its effect was sought to be avoided by claiming that the prior holders, citizens of New Jersey, had bought without notice, and that plaintiff could stand on the want of notice of such prior holder. To recover in this point of view, plaintiff could not "skip over" the prior holders, who could not sue in the Federal Court, but was compelled to invoke and stand upon the title of such prior owners and claim under the assignment from them. It is respectfully submitted that in this condition of the record, the reason for permitting an assignee to sue as mere bearer fails, and that the prohibition of the statute applies in such a case.

But secondly, the suit should have been dismissed, because it did not sufficiently appear that plaintiff was *bona fide* holder of bonds in his own right, to enable him to sue in the Circuit Court.

As shown by the above statement of facts, plaintiff acquired three hundred dollars in amount of the bonds as distributee of his father's estate. To those his title was doubtless *bona fide*, but for that amount he could not sue in the Circuit Court. He bought $100 more of Samuel Halsey, $300 more of Joseph J. Halsey, and made the purchase of $200 of Samuel Halsey, which last bonds had never belonged to his father's estate. None of these vendors could sue in the Federal Courts. To entitle himself to recover in the United States Circuit Court on those bonds, plaintiff should clearly have shown the *bona fides* of his purchase and a valuable consideration paid. No such proof appears. It is simply proved that he bought them and paid something for them—what or how much, or in what way he paid for them does not appear, nor does it appear but what these purchases were also made after the scheme had been entered upon to add the bonds of the other assignors. All that is proved in regard to the purchase of these additional bonds would be satisfied by such a purchase as was made in the case of *Farmington* vs. *Pillsbury*, above cited, and yet the Court had no difficulty in holding that purchase collusive, although the plaintiff had there given his note for the coupons.

In a case where, as to a part of plaintiff's claim, it is clearly collusive to save the remainder of the case, the proof should be clear and conclusive; applying the doctrine of "*nosciter a sociis*," the Court will not presume a *bona fide* purchase in the absence of proof in favor of plaintiff, who confessedly comes into Court with part of his demand collusive and fictitious.

The penalty imposed by the act of 1875, for a collusive joinder, is a dismissal of the suit, and such was the action of this Court in *Williams* vs. *Nottawa*, 104 U. S., 209.

In the case of *Bernards* vs. *Stebbins*, the suit was not dismissed as to the bonds actually owned by the non-resident plaintiff, because it clearly appeared that his title to said bonds was *bona fide*. It was not disputed. And they were sufficient in amount to give the Court jurisdiction without invoking the aid of the other bonds collusively assigned.

*Hayden* vs. *Manning*, 106 U. S., 586, is much in point. See page 588.

So in this case it appears that these bonds were never in the actual possession of plaintiff, but had been in the possession of the witness, E. D. Halsey, continuously since 1869. (Record, p. 122.)

Abraham Halsey has never been in New Jersey since his father's death, which occurred in September, 1871. (Record, p. 120.)

Plaintiff has lived in California since 1851, and has never been in New Jersey since, except from December, 1870, to March, 1871. (Record, p. 124.)

He has never, so far as the record shows, had any of these bonds in his possession, nor seen one of them, nor so far as appears, does he know that this suit is pending in his name. The bonds were never delivered to him; he never became the owner of the specific bonds. Title must be acquired either by assignment or by delivery. In the absence of either, a payment of the full price for the bonds would not make him the bearer, so that he could sue on them. He might thereby acquire a right to become the owner and bearer, but until assigned or actually delivered no such result follows.

The assignment of the various owners to him makes no mention of his own bonds, nor does it seem to contemplate a joinder of the bonds of the assignors with his own bonds.

In this condition of the proof in regard to the additional bonds over and above the $300 acquired from his father's estate, the proof is too meagre to justify the Court in holding that the jurisdiction of the Court plainly appears, and if so the suit should according to the statute, be dismissed.

## III.

The evidence in this case shows that the bonds were void even in the hands of a *bona fide* purchaser

The second section of the act authorizing this township to issue these bonds, authorizes the issue only of a "*sum of money not exceeding ten per centum of the valuation of the real estate and landed property of such township, to be ascertained by the assessment rolls thereof respectively for the year eighteen hundred and sixty-seven.*"

As shown above, the issue of $85,000 was in excess of ten per centum of the valuation, as shown by the assessment roll, which was only $823,500.

This restriction to ten per centum on the valuation of the real estate of the township was a limitation of the power of the township, which makes the bonds void if the restriction is disregarded.

*School District* vs. *Stone*, 106 U. S. 183, *185*;
*Osborne* vs. *County of Adams*, Ib. 181;
*Parkersburg* vs. *Brown*, 106 U. S. 501;
*Lewis* vs. *City of Shreveport*, 108 U. S. 286;
*Ottawa* vs. *Carey*, Ib. 123.

No question of estoppel can arise here, as it nowhere appears in the proof in this case that the bonds contained any recitals which would estop the township as against an innocent holder.

The declaration avers that the bonds contained a recital that the bonds were issued in pursuance of the act, but that is not proof, and the Court cannot go outside the record to presume that anything was proved that does not appear in the proofs.

But suppose it had so appeared, would such a recital estop the township?

In the case of *School District* vs. *Stone*, 106 U. S., 105, this question was adverted to, and it was held not necessary to decide it, because the recitals in the bonds in that case, as construed by the Court, did not cover the point.

If the bonds in this case contained such a recital, the question would be squarely presented.

The Supreme Court of New Jersey, in construing this statute on another part, hold that such a recital as to the majority of the taxpayers would not estop.

*Morrison* vs. *Bernards*, 7 Vroom, 219.

This Court has, as shown by Mr. Justice HARLAN in *School District* vs. *Stone*, repeatedly held that in such case a recital in the bond estops the township as against a *bona fide* holder from denying that the formalities and ceremonies made necessary to the execution of the power have been complied with.

I can find no case which holds that such recital will justify a purchaser, who must know of the restriction, in relying on such a recital when the means of ascertaining the truth are at hand, and when it is plain that an over-issue would be in excess of power.

The great efficacy which the Court has given to such recitals has never gone so far as that.

The language of this act would seem to preclude such an idea. The second section provides that the signatures to the consent should be proved by one of or more of the commissioners, and the fact of their being a majority is to be proved by the assessor, and the consent as to these two points is made evidence.

The act nowhere confers on any officer or agent the power to determine this vital question, nor does it prescribe how it shall be proved.

Every one who buys must know that for himself; there is nothing in the act to supply proof of this condition.

This Court said that the construction ought to be strict "when it is proposed by mere recitals upon the part of the officer of the municipal corporation to exclude inquiry as to whether bonds issued in its name were made in violation of the constitution and of the statute, *of the provisions of which all must take notice.*"

*School District* vs. *Stone, supra.*

To give such effect to such a recital would carry the doctrine of estoppel further than this Court has ever gone, and would enable commissioners to create a power for themselves which the legislature has denied them.

In *Hayes* vs. *Holly Springs*, 114 U. S. 126, this Court said :

"Even a *bona fide* holder of a municipal bond is bound to show legislative authority in the issuing body to create the bond. *Recitals on the face of the bonds or acts in pais*, operating by way of estoppel, may cure irregularities in the execution of a statutory power, *but they cannot create it.*"

Besides there is no proof that plaintiff ever saw one of these bonds, or that he relied on such a recital if it had been in the bond. The question of the *bona fides* of his purchase of all but $300 of the bonds has been discussed.

To hold these bonds void will work no hardship to plaintiff, because it does not appear that he ever paid a dollar for any of these bonds; and it does appear that the railroad stock issued to the defendants was utterly worthless, and the scheme, in aid of which these bonds were to be issued, has proved a total failure.

See Merchants Bank v. Bergen
115 U. S. 384 and cases there cit

## IV.

If the second and third positions, above taken, shall be held untenable, or if the Court does not feel called on to pass upon those questions, then the result must be a reversal of the judgment, with costs, and the cause must be remitted to the Circuit Court for a new trial, because this Court has no means of determining how much of the judgment below belongs to the plaintiff's bonds. If such is the result, the Circuit Court should be directed to exonerate the defendant from the costs of the former trial, a good portion of which was due to the fact that the Court erroneously entertained the suit.

The statute of 1875, in directing the Circuit Court to dismiss the suit, empowers it to make such order as to costs as will be equitable, and as the whole trial has proved a failure, defendants ought not to be burdened with any costs occasioned by it.

*Mansfield, &c., Railway Company* vs. *Swain*, 111 U. S. 379, 389. 10

Thomas N. McCarter
Atty Pltffs in Error.

# APPENDIX.

## AN ACT

TO AUTHORIZE CERTAIN TOWNS IN THE COUNTIES OF SOMERSET, MORRIS, ESSEX AND UNION TO ISSUE BONDS AND TAKE STOCK IN THE PASSAIC VALLEY AND PEAPACK RAILROAD COMPANY.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey,* That on the application in writing of twelve or more freeholders, residents of any township in either of the counties of Somerset, Morris, Essex or Union, situate along the route of said railroad, it shall be the duty of the circuit court of the county wherein such township is situated, within ten days after receiving such application, to appoint under his hand and seal, not more than three freeholders, residents of such townships, to be commissioners for such township to carry into effect the purposes and provisions of this act, who shall hold their offices respectively for the term of five years and until others shall be appointed.

2. *And be it enacted,* That it shall be lawful for said commissioners to borrow, on the faith and credit of their respective townships, such sum of money not exceeding ten per centum of the valuation of the real estate and landed property of such townships, to be ascertained by the assessment rolls thereof respectively, for the year eighteen hundred and sixty-seven, for a term not exceeding twenty-five years, at a rate of interest not exceeding seven per centum per annum, payable semi-annually, and to execute bonds therefor, under their hands and seals respectively; the bonds so to be executed may be in such sums, and payable at such times and places, as the said commissioners and their successors may deem expedient; but no such debt shall be contracted or bonds issued by said commissioners, of or for either of said townships, until the written consent shall have been ob-

tained of the majority of the taxpayers of such township, or their legal representatives, appearing upon the last assessment roll, and shall represent a majority of the landed property of such township (including lands owned by non-residents) appearing upon the last assessment roll of such township; such consent shall state the amount of money authorized to be raised in such township, and that the same is to be invested in the stock of the said railroad company, and the signatures shall be proved by one or more of the commissioners; the fact that the persons signing such consent are a majority of the taxpayers of such township, and represent a majority of the real property of such township, shall be proved by the affidavit of the assessor of such township, endorsed upon or annexed to such written consent, and the assessor of such township is hereby required to perform such service; such consent and affidavit shall be filed in the office of the clerk of the county in which such township is situated, and a certified copy thereof in the town clerk's office of such township, and the same or a certified copy thereof shall be evidence of the facts therein contained, and received as evidence in any court in this State, and before any judge or justice thereof.

3. *And be it enacted*, That the said commissioners authorized by this act may, in their discretion, dispose of such bonds or any part thereof, to such persons or corporations, and upon such terms as they shall deem most advantageous for their said township, but not for less than par, and the money that shall be raised by any loan or sale of bonds, shall be invested in the stock of said railroad company for the purpose of building the aforesaid railroad, and said money shall be applied and used in the construction of said railroad, its buildings, equipment and necessary appurtenances, and for no other purpose; the commissioners respectively, in the corporate name of each of their said townships, shall subscribe for and purchase stock in said railroad company, to the amount they may have severally borrowed as aforesaid, and by virtue of such subscription or purchase of stock, upon receiving certificates for the amount of said stock

so subscribed for or purchased by them, the said townships shall acquire all the rights and privileges respectively of other stockholders of said company, and it shall be lawful for the commissioners provided for in this act, or either of them with the consent of the others, or a majority of the said commissioners, to participate in and to act in all the regular and legally authorized meetings of the stockholders, and either of them may act as directors of said company if he shall be duly elected as such.

4. *And be it enacted,* That the said commissioners respectively authorized by this act shall report to the township committees of their respective townships at their regular annual meeting in each year the amount required to pay principal or the interest, if any, on the said bonds authorized to be issued under and by virtue of this act, due or to become due and payable during the next ensuing year; the dividends arising from the stock so subscribed for or purchased by said township in pursuance of this act, or so much thereof as may be necessary, shall be received by said commissioners and by them applied to the payment of the interest which shall from time to time accrue upon the bonds authorized by this act, and in case such dividends shall not be found sufficient in any one or more years to pay the principal and interest accruing on said bonds, due and to become due as aforesaid, it shall be and hereby is made the duty of the said township committee, and they are hereby authorized and required to cause to be assessed and levied and collected of the real estate and landed property of said townships respectively, at the same time and in the same manner as other taxes are assessed, levied and collected, such sum or sums of money as shall have been reported to said township committee by the said commissioners, authorized by this act, to be necessary to make good such deficiency in the payment of the said principal and interest on the said bonds; and the same when collected shall be paid to said commissioners respectively and by them applied to the principal and interest on said bonds, or so much thereof as shall

remain unpaid after the application of said dividends to that purpose.

5. *And be it enacted,* That it shall be lawful for such railroad company to agree with the said commissioners respectively, in behalf of their respective townships, to pay the semi-annual interest accruing on the bonds issued by such townships for the term of three years, or until said railroad shall be completed and in operation and earning sufficient to pay dividends equal to the interest from time to time accruing on said bonds.

6. *And be it enacted,* That the said commissioners appointed under and by virtue of this act may at any time after acquiring such capital stock exchange the same in whole or in part for the bonds issued under the authority of this act, and in such case they shall cancel the bonds so received by them, or they may dispose of such stock in their discretion to any purchaser or purchasers for cash, but shall not sell or dispose of such stock at less than par except at public sale, of which twenty days notice shall be given in two newspapers published in their respective counties, but no such sale shall be made except by consent obtained to the extent and in the manner provided in the second section of this act, and in case of sale of said stock, either at public or private sale, the proceeds thereof shall be applied by said commissioners respectively to the purchase or redemption of the bonds authorized to be issued by this act and for no other purpose whatever.

7. *And be it enacted,* That at the expiration of twenty-five years after the passage of this act it shall be and hereby is made the duty of the said board of assessors and they are hereby authorized, unless the payment of said bonds is otherwise provided for, to cause to be assessed and levied and collected on the real and landed estate of each of said townships, at the time and in the manner as other taxes are assessed, levied and collected, the sum due on said bonds so issued in pursuance of this act, together with the interest on said principal sum or so much thereof as may remain unpaid by reason of the deficiency of the dividends and sale of said stock; the

amount so to be raised under the authority of the said township committees for the payment of the principal or interest shall be determined by the report of the said commissioners respectively, to the said township committee ,as hereinbefore authorized by this act.

8. *And be it enacted*, That the said commissioners shall also provide within five years from the time of issuing said bonds for the annual payment of at least five per cent. of the same, so as to insure the final liquidation of said bonds within twenty-five years after their date, and for that purpose they shall receive and apply annually the surplus dividends on the stock held by said townships over the amount necessary to pay the semi-annual interest on said bonds, and if the amount of such surplus dividends is not sufficient for the annual payment of said five per cent., and the said commissioners shall not have received sufficient from the sale of stock as herein provided to pay the same, then the deficiency shall be reported by the said commissioners to the township committee to be levied and raised annually in the manner herein provided for paying the interest on said bonds.

9. *And be it enacted*, That before the said commissioners, or either of them, shall enter upon the discharge of their duties under this act, they shall jointly and severally, with two or more sureties, execute to their respective townships by their respective corporate names, a bond in the penal sum equal to the amounts to be issued to said townships under and by virtue of this act, conditioned for the faithful discharge of their duties as commissioners under this act, and for the just and honest application by them of all moneys, stocks or bonds issued by them or coming into their hands, according to the true intent and meaning of this act; the sufficiency of such sureties shall be determined by the township committee of such townships respectively, or by the Judge of the Circuit Court of the county in which such township is situated, to be endorsed on said bonds; said bonds shall immediately thereafter be deposited with the clerk of each of said townships, to be safely kept under

the direction and control of the township committee to be collected by them or their successors in office, for the use and benefit of said township, in case the said commissioners, or either of them, are guilty of such a breach of duty or malfeasance in office as to render said bond collectible.

10. *And be it enacted,* That in case a vacancy shall happen by reason of death, removal from said township, resignation or refusal to serve, or otherwise, of either of said commissioners provided for in this act, the vacancy shall be filled by the remaining commissioners of the township in which the vacancy so exists, by appointment, in writing, to be deposited with the township clerk of said township; each and every person so appointed shall, before he enters upon the discharge of his duties, execute and deliver to the said township, in like manner, a bond in like amount with like conditions and securities as hereinbefore provided, and all provisions of this act shall apply to the successors of the commissioners provided for in this act, whose powers and duties and liabilities shall be the same as those of the commissioners first appointed under this act.

11. *And be it enacted,* That each of the said commissioners shall receive the sum of two dollars per day for each day actually engaged in the discharge of his duties under this act, and his necessary disbursements, to be audited and paid by the township committee the same as other township expenses.

12. *And be it enacted,* That the commissioners in each of said townships shall constitute a board to act for their said townships respectively, and a majority of said commissioners in each of said boards shall constitute a quorum to do any business authorized by this act.

13. *And be it enacted,* That on the expiration of the term of office of either of the commissioners provided for in this act, or of their successors, his place shall be filled in the manner provided in the first section of this act, and the commissioners so appointed, as well as those to be appointed under the tenth section of this act, shall

be residents and freeholders of the township for which they are to act as such commissioners.

14. *And be it enacted*, That all bonds issued in accordance with the provisions of this act shall be registered in the office of the county clerk of the county in which the township is situated issuing the same; and the words "registered in the county clerk's office" shall be printed or written across the face of each bond, attested by the signature of the county clerk when so registered, and no bond shall be valid unless so registered.

15 *And be it enacted*, That this act shall be a public act, and shall take effect immediately.

Approved April 9th, 1868.

## A SUPPLEMENT

### TO AN ACT ENTITLED "AN ACT TO CHARTER THE PASSAIC VALLEY AND PEAPACK RAILROAD COMPANY," APPROVED MARCH TWENTY-NINTH, EIGHTEEN HUNDRED AND SIXTY-FIVE, AND ITS SEVERAL SUPPLEMENTS, APPROVED FEBRUARY SEVENTH, EIGHTEEN HUNDRED AND SIXTY-SEVEN, AND APRIL NINTH, EIGHTEEN HUNDRED AND SIXTY-EIGHT.

1. BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey*, That the said the Passaic Valley and Peapack Railroad Company shall have the power and is hereby authorized to make its bonds, and for the purpose of securing their payment, to mortgage its real estate and personal property, railway and all the appurtenances, franchises, powers and privileges and rights belonging thereto which it may possess under its act of incorporation and this supplemental act, to such an amount as it may deem expedient, and to sell or negotiate the same at such a rate of interest or discount as it may deem for the best interest of the company without invalidation thereof, by virtue of any statute of this State, and said bonds and mortgages so sold or negotiated shall be valid and binding in law and in equity, and the purchaser and purchasers under a decree in equity or foreclosure founded upon any such bond and mortgage, shall be invested with all the estate, rights, franchises, powers and privileges which are or may be conferred upon or possessed by said company under or by virtue of its act of incorporation, and any supplements thereto, subject, nevertheless, to all the restrictions, conditions and limitations contained therein.

2. *And be it enacted*, That the said Passaic Valley and Peapack Railroad Company may increase its capital stock to an amount not exceeding the cost of said railroad, its appurtenances and connecting line, and may

connect with any other railroad now built, or hereafter to be built, and the right of way and all other rights and privileges necessary to construct and operate said connecting line, shall be obtained and subject to all the restrictions specified in the original charter of the Passaic Valley and Peapack Railroad Company; and such connecting railroad may guarantee the payment of the interest and principal of the bonds of the Passaic Valley and Peapack Railroad Company, as well as dividends upon stock.

3. *And be it enacted*, That the said company may have and hold real estate at its several stations and depots on the lines of the said railroad to a sufficient extent to provide accommodations and conveniences for the business of said railroad, and may erect and build thereon such depot houses and machine shops as may be expedient for the accommodation of passengers, safety of property, and other necessary uses.

4. *And be it enacted*, That until the said company shall pay the tax of one-half of one *per centum*, as required by its original act, they shall be regularly assessed and pay tax for the value of its real estate, including improvements thereon and personal property, as are now taxed in the city or cities, township or townships wherein it lies, at the same time and rate and in the same manner, for the same purposes, and by the same person or persons as other taxes assessed in said city or cities, township or townships; *provided, however*, that as soon as said company shall have completed five consecutive miles of said road, they shall pay tax to the State as required by the original act.

5. *And be it enacted*, That this act shall take effect immediately.

Approved March 16, 1869.

117-336

Office Supreme Court U.S.
FILED.
JAN 22 1886
JAMES H. McKENNEY,
CLERK.

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# SUPREME COURT OF THE UNITED STATES.

October Term, 1885.

No. 148.

THE INHABITANTS OF THE TOWNSHIP OF NEW PROVIDENCE, IN THE COUNTY OF UNION, AND STATE OF NEW JERSEY,

*Plaintiffs in Error,*

*vs.*

ABRAHAM HALSEY.

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# BRIEF OF HENRY C. PITNEY,

*For Defendant in Error.*

"The Jerseyman" Law Press Print.

# UNITED STATES SUPREME COURT.

OCTOBER TERM, 1885.

No. 148.

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|---|---|
| THE INHABITANTS OF THE TOWNSHIP OF NEW PROVIDENCE IN THE COUNTY OF UNION, *Plaintiffs in Error,*<br>*vs.*<br>ABRAHAM HALSEY, (*Plaintiff below*) *Deft. in Error.* | *In error to the Circuit Court of the U. S. for the District of New Jersey.* |

## ARGUMENT OF H. C. PITNEY FOR DEFENDANT IN ERROR.

### STATEMENT.

The action is brought by the plaintiff, Abraham Halsey, a citizen of the State of California, against the defendant municipality, to recover the principal and interest due upon divers bonds issued by the municipality in aid of the Passaic Valley & Peapack Railroad Company, whose name was afterwards changed to The New Jersey West Line Railroad Company.

The bonds were issued under the same Act of the Legislature which was considered by this Court in the case of the *Township of Bernards vs. Stebbins*, 109, U. S., p. 341.

A copy of the Act is hereto annexed.

The bonds sued on were duly sealed and were all past due, both principal and interest.

The declaration sets out the filing in the office of the Clerk of Union County, in which the defendant municipality is included, of the *consent paper* provided for in the second section of the Act to the effect that the Commissioners of the Township might borrow $85,000 on the faith and credit of the Township, which sum did not exceed ten per cent. of the value of real estate, &c., to be invested in the stock of the Railroad, and that to that paper was annexed the affidavits of the Commissioners to the effect that the signatures of the persons purporting to sign the same were genuine, and also the affidavit of the township assessor to the effect that the names signed thereto constituted a majority of the taxpayers of the township, and represented a majority in value of the real property of the township, and also that they constituted a majority of the taxpayers, and represented a majority of the real property appearing on the assessment roll of the Township for the year 1867.

(See Declaration, pp. 4 and 5, and a copy of the consent papers, p. 199 of the record.)

That the said Commissioners, in pursuance of that consent and the Act of the Legislature, issued certain bonds, with coupons annexed, which were duly registered, (p. 5 and 6,) and that the plaintiff became the holder and bearer of them by purchase for value in open market. (p. 6.)

(See copy of one of the bonds hereto annexed.)

(p. 29 (post

## Pleas.

The defence made is found in 14 *Pleas*, printed p. 101–105 of the Record.

They are

1. *Nil debit.*
2. *Non est factum.*
3. Same as to the interest coupons.

4. That Wilcox, who made the affidavit to the consent papers as assessor, was not such assessor.

5. That consent papers were not signed by the majority of taxpayers, of which plaintiff had notice.

6. That the consent papers were not signed by the majority in value of owners of real estate

7. That the Commissioners did not borrow any money, nor did they sell the bonds, and notice thereof to the plaintiff.

8. That the affidavit of Wilcox is not true, repeating 5 and 6 pleas.

9. That the bonds were not registered.

10. That the Commissioners did not give bonds to the township.

11. That the Commissioners were not duly appointed.

12. Repetition of 10.

13. Statute of Limitations.

14. To interest coupons Statute of Limitations.

To this the plaintiff interposed the following

### REPLICATIONS.

As to the 1st, 2nd, 3rd, 4th, 5th, 6th, 7th and 8th pleas, issue and traverse.

As to the 4th, 5th, 6th, 7th and 8th pleas,—that the plaintiffs had no notice of the several matters therein set forth before he purchased the bonds.

As to the 9th plea,—that the bonds were registered.

As to the 10th and 12th pleas,—that the Commissioners did give bonds, &c.

As to the 11th plea, issue.

As to the 12th plea,—that the plaintiff did not have notice.

As to the 13th and 14th pleas,—that the several causes of action did accrue within six years.

13. As to the 4th, 5th, 6th, 7th, 8th, 9th, 10th and 12th pleas,—that the Commissioners issued and put on the market all the bonds and they were sold for value

to innocent purchasers, giving the history of each bond by its number, and *inter alia* that Samuel B. Halsey, deceased, father of the plaintiff below, in his lifetime became the owner by purchase of certain of them, &c., (see p. 109 of the record,) and that he had not at the time of the purchase any notice or knowledge of the matters set forth in these pleas.

### DEMURRER.

To the replication of *bona fide* purchaser the defendant demurred and his demurrer was overruled. (See the opinion of the Court hereto annexed.)

p. 30 post

### REJOINDER.

Defendant then rejoined traversing the allegations of *bona fide* purchaser and alleging that plaintiff was a mere trustee for residents of the State.

At the trial the plaintiff produced the original appointment of the Commissioners; their official oath; the original consent papers and affidavits annexed; and proved that Wilcox, who made the affidavit, was assessor and held that office in 1868.

Plaintiff also produced a copy of the consent papers and the Commissioners' bond to the township filed with the town clerk. Also the register of the bonds (p. 113-118).

Plaintiff further proved that of the bonds sued on, $900 in face value belonged absolutely to him (evidence of E. D. Halsey, p. 118-126) and the balance were assigned to him for the purpose of suit, as was done in *Bernards Township vs. Stebbins*.

The evidence further showed that S. B. Halsey was a *bona fide* purchaser for cash paid, without notice of any defects in their issue, of $2,000 face value of the bonds sued upon, including the $900 owned by the plaintiff in his own right. p. 28a. post

The *bona fides* of the original purchasers was also proven by each of them.

The defendant gave evidence which he claimed tended to show that the consent papers were not signed by a majority of the taxpayers of the township, and that the valuation of the landed property was less than $85,000.

An examination of the evidence will show that it failed in each case.

It did not produce the assessment roll—the final corrected *duplicate* of the township--but only the field-book of the assessor, which is subject to addition and alteration before the final roll or *duplicate* is made.

There was no count made of the actual number of names on the roll. Many names being there repeated several times.

### DEFT'S REQUESTS TO CHARGE.

Five points were made by the defendant before the jury, (p. 191, 192).

1. Plaintiff could not recover on any of the bonds except the $900 owned by him absolutely.
2. The consent paper was not signed by the majority, &c.
3. There was an excess of bonds issued.
4. The bonds were not registered before being issued.
5. Statute of Limitations as to coupons more than six years overdue when the suit was commenced.

### CHARGE.

The Judge charged that if the plaintiff was a *bona fide* holder for value paid, or the representative of one, the defects in question could not be set up, and followed the previous ruling in the *Bernards* case as to the bonds held for collection, and charged that the Statute of Limitations did not apply.

As soon as the decision of this Court in *Bernards Township vs. Stebbins* was announced, counsel for the defendant in error served upon the counsel for the plaintiff in error a notice offering to consent that judgment be reversed as to all but the $900 and interest founded on bonds owned by the defendant in his own right. A copy of this notice is hereto annexed.

p. 38 post

There is no difficulty in ascertaining just how much of the verdict and judgment is due to the $900, since a statement was made up for the jury and submitted to counsel, in which the amount due on each bond by numbers was computed.

I submit that if the Court should be of the opinion that in other respects the judgment is unassailable, the offer so made should be taken into consideration in the judgment to be pronounced.

(p. 28 b.

## ARGUMENT.

### I.

As to the demurrer to the thirteenth replication. (pp. 108-111).

The question raised and argued under that demurrer was whether or not the plaintiff could maintain an action in the federal court upon bonds payable to bearer which at one time belonged to a resident of the State.

The replication, after setting out title in the bonds in several residents of the State who were *bona fide* purchasers for value, alleged that these same parties *assigned and transferred* them to the plaintiff.

The object of the pleading was to give the plaintiff the position of a person who claimed through a *bona fide* purchaser.

In point of fact the previous pleading had shown that the bonds were payable to bearer and passed by manual transfer without written assignment.

The case, then, stood in this wise: Plaintiff made a case by his declaration both as to jurisdiction and right to recover. Defendant pleaded certain matters which *ex gr.* made a defence to the action on the merits. Plaintiff replied matter which, on the argument below, it was admitted furnished a complete reply on the merits to the pleas, but which the defendant contended showed that plaintiff had no right to sue in that Court—ousted the jurisdiction.

1. I submit that, admitting for the present that the facts set out in the replication do oust the jurisdiction,

the point cannot be raised on demurrer, since the effect of sustaining the demurrer is to overrule the replication and at once restore the jurisdiction.

The difference between a defect of jurisdiction shown in the declaration and one shown in the replication is manifest. The cause of action is shown in the former, and it must at the same time show jurisdiction. Without it no standing in Court is shown. But a replication merely replies to some answer to the merits of the declaration.

Even if it be *proper* practice to raise a question of jurisdiction arising on the face of the declaration by demurrer, I submit it should not be extended to any subsequent pleading.

The true office of the demurrer here is to determine whether the replication sets out an answer to the substance of the pleas. To use it for any other purpose is to abuse it.

2. The facts set out in the replication do not oust the jurisdiction of the Court.

The reasoning and conclusion of the learned Circuit Judge is correct.

The language of sec. 629 of the Revised Statutes was changed by the first section of the Act of March 3rd, 1875, 18 Statutes at Large, p. 420, which is a new delineation of the jurisdiction of the federal courts.

In order to oust the jurisdiction under either the old or the new section, the plaintiff must occupy the position of an *assignee by written assignment of a contract*, which written assignment must be *necessary* in order to enable him to maintain his action.

The replication does not so place him and the proofs at the trial show the contrary. The bonds were payable to bearer. There was no written assignment of them necessary, and none in fact made, except as to those which were delivered to him to sue upon for the owners, which of course are now out of the question.

Numerous decisions have placed such bonds on the level with ordinary negotiable mercantile instruments. They are within the spirit, if not the letter, of the exception in the Act of 1875.

But if they are strictly "*contracts*," still the plaintiff is not an "*assignee*" within the meaning of that act. The language of the replication is "*assigned and transferred*;" but this does not mean "*assigned*" in the sense in which that word is used in the statute, as I shall show by the cases to be cited. And the allegation was sustained by the mere production of the bonds without written assignment.

An "*assignee*" under the statute is one who holds by virtue of a written instrument of assignment and to whose title a written assignment is necessary.

A *bearer* of a promissory note or other negotiable instrument is not an *assignee* in the sense here used.

The strictness of some early cases was relaxed by the later cases.

*Bradford vs Jenks*, 2 McLean, p. 130, at p. 132;

*Bullard vs. Bell*, 1 Mason C. C. 243, at p. 251.

In this case Justice Story says that in order to oust jurisdiction "the plaintiff must sue *in virtue* of an 'assignment.'"

*Bank of Kentucky vs. Wister*, 2 Peters, p. 318, at p. 326;

*Smith vs. Clapp*, 15 Pet., p. 125, at p. 128.

The action was on a promissory note payable to a payee, who was a resident of the State, or bearer.

The declaration alleged that the note was "*assigned over and delivered*" to the plaintiff who was a nonresident, and it was held that the Court had jurisdiction.

This case seems to be precisely in point.

*Bonnafee vs. Williams*, 3 Howard, p. 574, at p. 577;

*White vs. The Vermont R. R.*, 21 Howard, p. 575.

An action by a resident of another State founded on railroad bonds payable to —— or bearer, which had been originally issued and delivered to a citizen of the State and from him passed by delivery to the plaintiff, making a case precisely in point. *Held*, the Court had jurisdiction.

*Lexington vs. Butler*, 14 Wall., p. 282.

p. 28c post

## II.

As to the point that the consent paper was not signed by the requisite number of persons.

It was proven by the production of the original document (a copy of which is printed herewith) that the three commissioners were duly appointed and qualified, and entered upon the duties of their office and executed the same openly.

p. 38– 42 post

It was also proven that written consent papers were filled in the County Clerk's office, with the proper affidavits annexed. These are printed at pp. 199–204. The affidavit of the assessor to the first set of consent-papers is found on p. 204.

The affidavits of the commissioners and assessor are strictly in conformity to the requisitions of the statute (herewith printed).

The Statute was passed in April, 1868, and the consents obtained in the summer of 1868. The affidavit was made in November, 1868, by the assessor for the year 1868.

The tax-law, in force at that time, is found in Nixon's Digest, 4 Ed., 1868, and so much of it as bears on this question is printed and annexed hereto. The book containing the assessment roll is there called the "*duplicate*" and is made and perfected as follows:

Between May 20th and August 20th, by act of 1846 (par. 1), and between May 20th and the third Monday in August, by act of 1867 (par. 116), the assessor makes a list of tax-payers and rateables with valuations for his township in a book which he calls his *field-book* (because usually done in pencil.) This book he copies in ink and lays before the township committee (the governing body of the township, composed in 1868 of five persons, now of three) for revision.

The committee is allowed until the last Saturday in August for that purpose (par. 115-118. Act of 1867). In that revision new names may be added and valuations changed. From this book, after revision, the assessor makes a book of abstracts which he lays before a meeting of all the assessors of the county (there being one for each township), held at the court house on the first Monday in September (par. 3, 94,) for the purpose of fixing the quota of County and State tax to be paid by each township. The assessors so convened are called the *Board of Assessors.* This Board may, for that purpose, increase the total valuation of any township, but may not alter the valuation for individuals as fixed by the assessors. After the quota has been so fixed by the Board of Assessors of the County, the assessor of the township proceeds to levy the same upon the persons assessed, according to the amount of their respective valuations (par. 6), and, fifteen days after the meeting of the Board of Assessors, delivers a *duplicate* thereof to the township collector (par. 5.)

Immediately after receiving the *duplicate* the collector again lays it before the township committee (par. 103, 104), who again revise the same and take proceedings to have any omissions or erroneous undervaluations corrected before the Commissioners of Appeal, who meet for the purpose on the fourth Tuesday of November. In the meantime the collector gives notice to all tax-payers of their assessments (par. 11, 110), and each tax-payer may appeal from his assessment to the Commissioners of Appeal (par. 8.) No *tax list* or *duplicate* can be said to be complete until after the meeting of the Commissioners of Appeals on the fourth Tuesday of November in each year.

It thus appears that the construction put upon the bonding act by the bonding commissioners and assessor was correct. At the time of making this canvass, August 1868, the "*last assessment roll*" was the duplicate of 1867.

It also appears by the Tax Act that the township assessment roll was not a public record kept in a public place where all persons who desired could examine it. No provision for such inspection is found in the act. There is not even a provision for handing it over to successors in office.

1. I submit that upon this state of facts, and of the tax law, the consent papers filed in this case were conclusive, and that it was not open to the township to contradict the truth of the affidavits annexed thereto.

It is plain the bonding act contemplated that persons desiring to purchase should look at and rely upon the consent papers filed in the County Clerk's office, and that they, with the affidavits annexed, should be conclusive evidence of the facts sworn to. The act says: "Such consent and affidavit shall be filed," etc., "and the same, or a certified copy thereof, shall "be *evidence* of the facts therein contained, and re-"ceived as *evidence* in every Court in this State," etc. The act does not, like some of the New York acts, say "*prima facie evidence*," but "*shall be evidence.*" I submit that, considering the aim and object of the act, it is plain the legislative intent was to make it conclusive evidence in favor of bond-holders.

To make it *prima facie* evidence only, and permit the township to contradict it on every suit on a bond, would make it a mockery and not a protection.

The word "*evidence*" is used in the sense of "PROOF." (p. 289. (post

Of course, in a direct proceeding to set aside or control the action of the Commissioners, such as that in *Lane vs. Schomp*, 5 C. E. G., N. J. Rep., 82, and in *People vs. Allen*, 52 N. Y., 538, the affidavit is not conclusive.

2. The commissioners and assessors were the officers

of the township upon whom the law cast the duty of ascertaining and determining the question of fact, whether or not the requisite majority had consented; their action is conclusive and estops the corporation.

This Court so held in construing a similar statute in *Town of Venice vs. Murdock*, 92 U. S., 494, at 497-500.

The bonds sued upon in that case contained the same verbiage as is found in those in this case, viz., "*in* "*pursuance* of an act," &c.

At p. 497. 498, 499, the Court says :—

"It is very obvious that if the act of the legislature "which authorized an issue of bonds in aid of the "construction of the railroad, on the written assent of "two-thirds of the resident tax-payers of the town, "intended that the holder of the bonds should be under obligation to prove by parol evidence that each "of the two hundred and fifty-nine names signed to "the written assent was a genuine signature of the "person who bore the name, the proffered aid to the "railroad company was a delusion. No sane person "would have bought a bond with such an obligation "resting upon him whenever he called for payment of "principal or interest. If such was the duty of the "holder, it was always his duty. It could not be "performed once for all. The bonds retained in the "hands of the company would have been no help in "the construction of the road. It was only because "they could be sold that they were valuable. Only "thus could they be applied to the construction. Yet "it is not to be doubted ,that the legislature had in "view, and intended to give, substantial aid to the "railroad company, if a sufficient number of the tax-"payers assented. They must have contemplated that "the bonds would be offered for sale; and it is not to "be believed that they intended to impose such a clog "upon their saleableness as would rest upon it if "every person proposing to purchase was required to "inquire of each one whose name appeared to the "assent whether he had in fact signed it.

“The act of the legislature manifests a contrary intent.
“*It created a tribunal to determine whether*
“*two-thirds of the resident tax-payers had assented.*
“*That tribunal was the supervisor and the commissioners,*
“*empowered also to execute the bonds in case*
“*such an assent were given. They were the appointed*
“*agents to obtain the assent; and, when acquired,*
“*they, or any two of them, were to make an affidavit*
“*that the persons whose written assents were attached*
“*to the statement comprised two-thirds of the resident*
“*tax-payers. That statement, with the affidavits,*
“*was required to be filed in the County Clerk's*
“*office. All this indicates unmistakably that it was*
“*their appointed province to decide whether the condition*
“*precedent to the exercise of their authority to*
“*issue the bonds had been complied with. Commissioners*
“*vs. Nichols,* 14 Ohio, N. S., 260. *They did*
“*decide the question before they issued the bonds.*
“*Their statement, verified by their affidavit, filed in*
“*the County Clerk's office, was a decision, and the*
“*recital in the bonds was a declaration of the decision;*
“that such a decision concludes the town
“against denying that the condition precedent had
“been performed, that it relieves the holder of the
“bonds from the obligation to look beyond it, is too
“firmly settled in this Court to admit of question. In
“Dillon on Municipal Corporations, sect. 418, the author,
“after reviewing the decisions, states this conclusion:
“‘If, upon a true construction of the legislative
“‘enactment conferring the authority, the corporation,
“‘or certain officers, or a given body or tribunal,
“‘are invested with power to decide whether
“‘the condition precedent has been complied with,
“‘then it may well be that their recital of their determination
“‘of a matter *in pais,* which they are
“‘authorized to decide, will, in favor of the bondholder
“‘for value, bind the corporation.’ *Here there*
“*was more than a recital. There was, in addition,*
“*proof of an actual decision, verified by oath.* Without
“citing the numerous decisions which sustain this

"statement of the law, we refer only to *St. Joseph*
"*Township vs. Rogers*, 16 Wall., 644, and *Town of*
"*Coloma vs. Eaves*, *supra*, p. 484, decided at this term,
"which unequivocally assert it. And the rule has
"additional reason in its favor, where, as in the pres-
"ent case, the authority of the municipal officers to
"bind the municipality is made dependent upon a
"precedent condition of fact, and the fact is not of a na-
"ture to be ascertained by purchasers in the market,
"to whom it was contemplated the bonds might be
"sold. Dillon, in sect. 419, states this as another ex-
"ception to the rule that an unauthorized representa-
"tion by a municipal officer that he has power is not
"binding on the corporation. His language is: 'The
"'only exception to this rule (the rule above stated)
"'to wit, where it is the sole province of the of-
"'ficers who issued the bonds to decide whether con-
"'ditions precedent have been complied with, is where
"'both parties have not equal means of knowledge as
"'to the extent and scope of their powers, and where
"'the particular character of their commission and
"'authority is, from its nature and circumstances, pe-
"'culiarly known to the officer or agent; in which case
"'the principal will, or may be, bound by the false
"'representations of the agent respecting its authority
"'and its extent and scope.' The present is exactly
"such a case. The town-officers had means of knowl-
"edge which the purchaser had not. They procured
"the signatures to the assent, and they knew whether
"or not they were genuine. They had knowledge,
"which, from the nature of the case, the purchaser
"could not have."

The language of the Court there applies with equal force here.

See also
*Lynde vs. County*, 16 Wall., 6, at p. 13;
*Com'rs vs. January*, 94 U. S., 202, at p. 205;
*Rock Creek vs. Strong*, 96 U. S., 271, at p. 277.

These officers were not the Commissioners of the Court nor of the State, but of the corporation known by its legislative appellation of "The Inhabitants of the township of Bernards in the County of Somerset."

The language of the act (sec. 1) is: "*To be Commissioners for such township* to carry into effect," etc. By sec. 9 they are to execute bonds to their respective townships for faithful performance of their duty, to be approved by the township committee. By sec. 11 their compensation is to be paid by the township. By sec. 12 they are to constitute a Board to act for their township by a majority quorum and vote. By sec. 4 they are to make an annual report, etc., to the township committees. The act nowhere provides any accountability on their part to any authority except the township.

The fact that they are appointed by the Court, and not elected by the people, does not alter their character in this respect. It is competent for the legislature to provide for the choice of officers and agents of municipal corporations in other modes than that of election by the people. Nothing in our New Jersey Constitution prevents it.

In this instance the corporation consists of every man, woman and child within its limits, and not of the persons who at the moment may constitute its governing body.

The power of the Legislature to alter and amend the organic laws of municipalities is undisputed.

1 Dill. Mun. Cor., 3d Ed., sec. 54 et seq., sec. 85.

There is, then, no difficulty in holding the Commissioners to be officers of the township within the limited sphere of their duties, and in the same sense that the regular township committee are its officers, whose duties in their turn are not less limited and exclusively statutory than those of the Commissioners.

The Commissioners were as much the agents of the corporation as if they had been *elected* instead of *appointed*.

The municipality is the creature of the Legislature, and the latter has power, without regard to the will of the inhabitants, to provide how the former's officers and agents shall be chosen.

1 Dill. Mun. Cor., 3d Ed., secs. 37 and 44.

*State vs. Seymour*, 6 Vroom, N. J., p. 47.

The case was this:

By a special act of the Legislature passed in 1868, certain persons therein named were appointed commissioners to lay out certain streets in Bergen Co., and to perform the duties of "surveyors of the high-" way," which by the general township law are elected by the people. The power of the Legislature to do this was questioned. The Court says (p. 54):—

"There are no reasons assigned that are sufficient "against the power of the Legislature to appoint these "commissioners, with the duties and authority given "them. They, in effect, take the places of surveyors "of the highways and overseers of roads, and map "and lay down many roads at a time, instead of one, "in anticipation of future public necessity. It is, in "principle, the ordinary delegation of legislative "authority to choose public officers, who do these "necessary and subordinate acts of administration. "They are municipal officers selected by the Legisla- "ture instead of the people, which, however ques- "tionable the method may be in policy, is frequently "exercised and can hardly be doubted within cer- "tain necessary limitations."

Our Supreme Court has held these very commissioners to be the agents of the township.

*Morison vs. Bernards*, 7 Vroom, p. 219.

The distinction between *general* and *special* agents in mercantile law does not apply to municipal officers. They are all *special agents* in one sense, because their powers and duties are all defined by statute. They do not represent and stand in the place of the municipality in the sense in which a mercantile agent does his principal. At the same time they are *general agents* within the scope of their special duties, and their acts, done within that scope and apparently in accordance with the law defining their duties, binds the municipality.

3. The recitals in the bonds estop the Township. The words are: "*This bond is issued on the faith and* "*credit of said Township in pursuance of an Act en-* "*titled,*" &c. (See copy of bond hereto annexed).

The force of the words "*in pursuance of*" is that the requirements of the act have been followed and observed.

Such was the interpretation put upon them in

*Moran vs. The Commissioners*, 2 Black, 722, at p. 726, 731;

*Harter vs Kernochan*, 103 U. S., 562, at p. 563, 569 & 570;

*Pompton vs. Cooper Union*, 101 U. S. 196, at p. 204.

This case is precisely in point.

At p. 203–204, the Court says:—

"If any error or wrong was committed in issuing "these bonds, it was the act of the agents of the plain- "tiffs in error. .

"Where one of two innocent persons must suffer a "loss and one of them has contributed to produce it, "the law throws the burden upon him and not upon "the other party. *Hearn vs Nichols*, 1 Salk. 289; "*Merchants' Bank vs. State Bank*, 10 Wal. 604.

"The bonds in question recite on their face that they "were issued '*in pursuance* of an act of the legisla- "'ture of New Jersey, approved April 9, 1868, entitled "'An Act to authorize certain townships, towns, and "'cities to issue bonds and to take the bonds of the "'Montclair Railway Company.'

"In *Orleans vs. Platt* (99 U. S. 676) this court said: "'The bonds in question have all the properties of "'commercial paper, and in the view of the law they "'belong to that category. *Murray vs. Lardner*, 2 "'Wall. 110. This Court has uniformly held, when "'the question has been presented, that where a cor- "'poration has lawful power to issue such securities "'and does so, the *bona fide* holder has a right to pre-

“ ‘sume the power was properly exercised, and is not
“ ‘bound to look beyond the question of its existence.
“ ‘Where the bonds on their face recite the circum-
“ ‘stances which bring them within the power, the
“ ‘corporation is estopped to deny the truth of the re-
“ ‘cital. *Mercer County vs. Hacket*, 1 id. 183; *San*
“ ‘*Antonio vs. Mehaffy*, 96 U. S. 312; *County of*
“ ‘*Moultrie vs. Savings Bank*, 92 id. 631; *Moran vs.*
“ ‘*Commissioners of Miami County*, 2 Black, 722;
“ ‘*Knox vs. Aspinwall*, 21 How. 539; *The Royal*
“ ‘*British Bank vs. Turquand*, 6 El. and Bl. 325.’

“These rules are the settled law of this Court, and
“they are decisive of the case in hand.”

See also

*Knox vs. Aspinwall*, 21 How., 539;

*Coloma vs. Eaves*, 92 U. S., 484, at p. 490.

“After all this, it is not an open question, as between
“a *bona fide* holder of the bonds and the township,
“whether all the prerequisites to their issue had been
“complied with. Apart from and beyond the reason-
“able presumption that the officers of the law, the
“township-officers, discharged their duty, the matter
“has passed into judgment. *The persons appointed*
“*to decide whether the necessary prerequisites to their*
“*issue had been completed have decided, and certified*
“*their decision. They have declared the contingency*
“*to have happened, on the occurrence of which the*
“*authority to issue the bonds was complete. Their*
“*recitals are such a decision;* and beyond those a
“*bona fide* purchaser is not bound to look for evidence
“of the existence of things *in pais*. He is bound to
“know the law conferring upon the municipality pow-
“er to give the bonds on the happening of a contin-
“gency; but whether that has happened or not is a
“question of fact, the decision of which is by the law
“confided to others,—to those most competent to de-
“cide it,—and which the purchaser is, in general, in
“no condition to decide for himself.

“This we understand to be the settled doctrine of
“this Court.”

*Venice vs. Murdock*, 92 U. S., 494, 495.

*Bonham vs. Needles*, 103 U. S., 648, 650.

At p. 650 the Court says: "The bonds recite that "they were issued *in pursuance of the authority* conferred by those statutes. Such recitals import a "compliance with the statute, and the township, "according to the uniform decisions of this Court, is "estopped to assert, as against a *bona fide* holder for "value, that such recitals are untrue. *Buchanan vs.* "*Litchfield* (102 U. S., 278)."

Here the jury have found that the plaintiff's father through whom he claims was a *bona fide* holder for value paid.

See also

*Montclair vs. Ramsdell*, 107 U. S., 148.

## III.

As to the alleged excessive issue of bonds.

A faint attempt was made to prove that while the act restricted the issue to ten per cent. of the assessed value of the land of the township, and the actual issue was $85,000, the total assessed value of the land was but $82,300.

The proof of this was made by additions of the columns of the field-book of the assessor, and not from the *duplicate*. The field-book is liable to alteration by the Township Committee, and by the Court of Appeals up to the last of November, and additions and alterations may be made up to that time. (See Tax Act hereto annexed.) The computation should have been made from the *duplicate*. But the Court propperly instructed the jury that this slight overissue could not be set up against a *bona fide* purchaser.

The excess of so small a sum surely could not be held to affect the whole issue.

But even if the error in this respect went to the whole issue, the charge was still right and is supported by the authorities.

> *Humboldt Township vs. Long*, 92 U. S., 642; 645;
> *Marcy vs. Oswego*, 92 U. S., 637;
> *Dallas County vs. McKenzie*, 110 U. S., 686;
> *Wilson vs. Salamanca*, 99 U. S., 499.

The ascertainment of the amount which the statute authorizes to be issued was peculiarly within the province of the Commissioners. p. 28c. post.

## IV.

The defendant corporation is estopped by its silent acquiescence in the conduct of its agents.

All their conduct was open and notorious.

The canvass of tax-payers was made in the summer of 1868. Ample opportunity was given to take action to restrain the commissioners, and such action was taken by the tax-payers of the neighboring township of Bedminster.

The corporation consists of every man, woman and child in it, and not of what may be termed its regular organization of officers.

1 Dill. Mun. Cor., 2d Ed., sec. 9, p. 93, where he says:

"The corporation is the artificial body created by "the law, and not the officers, since these are, from the "lowest up to the councilmen or mayor, the mere min- "isters of the corporation. Even the council, or other "legislative or governing body, constitutes, as it has "been well remarked, neither *the* corporation, nor in "themselves *a* corporation."

The N. J. Act creating these corporations is as follows (Revision of 1877, p. 1191):

"1. That the inhabitants of each of the several town- "ships, precincts and wards of this State, hereinafter "mentioned, be and they are hereby continued a body "politic and corporate in law, as heretofore constitut- "ed and established, by the name of 'the inhabitants "'of the township of ——, in the county of ——,' "as the case may be, that is to say:

"(2). The inhabitants of the townships of Spring- "field, Clinton, Union, Bloomfield, Belleville, Rah- "way, Westfield, *New Providence*, Elizabeth, Orange, "Caldwell, Livingston and Newark, in the County of "Essex," now Union.

Nevertheless, it is well settled that this body of people may, in their corporate capacity, be estopped by acquiescence.

Dillon on Mun. Bonds, sec. 23;

2 Dan. Neg. Inst., sec. 1545–7;

*Rogers vs. Burlington*, 3 Wal. 654, at p. 667.

Justice Clifford says:

"Perfect acquiescence in the action of the officers "of the city seems to have been manifested by the de- "fendants until the demand was made for the pay- "ment of interest. *They never attempted to enjoin "the proceeding but suffered the bonds to be issued "and delivered to the company*, and when that was "done it was too late to object that the power con- "ferred in the charter had not been properly execut- "ed."

Justice Swayne, in *Pompton vs. Cooper Union*, 101 U. S., at p. 201, says:

"Up to that time it does not appear that the validi- "ty of the township bonds was questioned by any "one. There seems to have been entire acquiescence "on the part of all concerned, including the township "authorities."

*County of Ray vs. Vansycle*, 96 U. S., 675, at p. 688, the Court says:

"Upon the clearest principles of justice, the tax- "payers of Ray County are concluded by the acts of "their official agents, and by their own failure, either "intentionally or from neglect, to assert, by appropri- "ate proceedings, their legal right (if any they ever "had) to prevent the transfer of their original subscrip- "tion to the company, which, by the construction of "its road, gave them greater railroad facilities, and at "no greater cost, than they could have obtained under "the contract with the North Missouri Railroad Com- "pany."

*State vs. Van Horne*, 7 Ohio, 327;

*Shoemaker vs. Goshen*, 14 Ohio, 569.

The language of the Court in *State vs. Van Horne* is peculiarly apt to this case.

*Commonwealth vs. Comm'rs. of Allegheny*, 37 Pa. St., 240.

## V.

As the statute of limitations.

The bonds were dated June 1, 1869. The first unpaid coupon matured July 1, 1871. The action was commenced June 24, 1879. Some two or three coupons had been due more than six years at the commencement of the suit.

The statute of limitations does not apply.

The action is on the bond, and not on the interest coupons, and, if it were on the coupons, those follow in this respect the fate of the bond itself.

At the trial below, *Amy vs. Dubuque*, 8 Otto, 470, was relied upon by defendant in support of the bar.

That case turned on the Iowa statute as applied to an action on overdue coupons attached to bonds the principal of which was not yet due.

The Iowa statute made ten years the limit for actions upon all contracts, sealed and unsealed.

But the Court in that case expressly affirmed its previous rulings that the time provided for the bonds would apply to the coupons. If the bonds were sealed instruments, actions on the coupons were barred only by the lapse of time which would bar an action on the bonds.

*Kenosha vs. Lamson*, 9 Wall., 477, at p. 483-5.

*City of Lexington vs. Butler*, 14 Wall., 282, at p. 296.

In New Jersey the statute requires a lapse of sixteen years to bar an action on a sealed instrument.

Nix. Digest, 1868, p. 511.

Revision of 1877, p. 594, sec. 6.

"That every action of debt or covenant for rent or
"arrearages of rent, founded upon any lease under
"seal, whether indented or poll, and every action of
"debt upon any single or penal bill for the payment
"of money only, *or upon any obligation without con-*
"*dition for the payment of money only*, or upon any
"award under the hands and seals of arbitrators for

"the payment of money only, *shall be commenced* "*and sued within sixteen years next after the cause* "*of such action shall have accrued*, and not after; "but if any payment shall have been made on any "such lease, specialty, or award, within or after the "said period of sixteen years, then an action institut- "ed on such lease, specialty or award within sixteen "years after such payment, shall be good and effect- "ual in law, and not after; *provided always*, that the "time during which the person who is or shall be en- "titled to any of the actions specified in this section "shall have been within the age of twenty-one years, "or insane, shall not be taken or computed as part of "the said limited period of sixteen years."

The doctrine of the cases last cited was not disturbed, but recognized and reaffirmed by this Court in

*Koshkonong vs. Burton*, 104 U. S., 668, at p. 672, 673.

There the statute of limitations had been amended in 1872 after the maturity of the coupons, making six years a bar to both bonds and coupons, and the constitutionality of that Act was questioned. By the statute in force at the date of the bonds twenty years was the time fixed as a bar to actions upon sealed instruments. Some question was made as to whether the bonds there in suit were sealed instruments or not. Holding they were such, the Court says, p. 673:

"If this interpretation of the revision of 1849 and "1858 be correct, it would follow that this section was "not, at the passage of the act of 1872, barred by limi- "tation as to any of the coupons in suit. Twenty "years had not then expired from the maturity of "any of them."

## ANSWER TO PL'FF'S ARGUMENT.

Since the foregoing was in print, I have seen the opening brief of the counsel for the plaintiff in error, and submit the following remarks thereon.

The statement in that brief of the mode in which the verdict was made up is not quite correct.

A statement was made by counsel at the trial for the jury, of which the following is an abstract:

| | |
|---|---|
| Principal of bonds | $8,200 00 |
| Interest on the same after maturity | 2,528 89 |
| Aggregate of coupons | 3,444 00 |
| Interest on the same after maturity | 1,604 29 |
| Total | $15,777 18 |

The statement is further erroneous in its abstract (page 10 of brief), of the evidence of *John M. Wilcox*, the township assessor for the year 1868. His evidence on cross examination shows (p. 155) that when he made his affidavit to the consent papers he had in his possession either the "*field book*" or "*duplicate*" for the year 1867, and he does *not* testify that the signers of the consents did not constitute a majority, &c. His evidence ends on page 157; and the evidence on page 158, referred to in support of that statement, is that of *Mr. Potter*, and, on examination, fails to sustain it.

The statement of the history of the *Halsey* batch of bonds is incorrect and incomplete. The facts are that bonds amounting to $2,200, were in 1869 offered for sale by *A. B. Bassinger* to *E. D. Halsey*, who offered them to his father *S. B. Halsey*, who purchased $2,000 of them, and paid *Mr. Bassinger* $1,700 in a check dated Oct. 4, 1869, produced at the trial, p. 177. The remaining $200 of the bonds were purchased by *E. D. Halsey* himself at eighty-five cents on the dollar. This lot he sold to his brother *S. S. Halsey*. *S. B. Halsey* gave $500 of the $2,000 bought by him to his daughter *Cornelia* in his life time, and the balance ($1,500) was distributed by his administrators among five of the children, $300 to each, viz: *Abraham*, of California; *Joseph J.* of Virginia; *Samuel S.*, *Edmund D.*, and *Susan E. Beach* of New Jersey. Subsequently, and long before this suit was brought, viz., Dec. 28, 1875, *Edmund D.*, *Abraham* and *Mrs. Beach* purchased from *Samuel S. Halsey* all his interest in his father's estate, including the three bonds, by deed also produced at the trial, (p. 179 top,) receiving each one bond of $100. Still later *Abraham* purchased the three bonds belonging to *Joseph J. Halsey* and the two belonging to *Samuel S. Halsey*, which the latter had purchased of *Edmund D.*

All this was clearly proved, and appears on the following pages of the record: pages 177, 178, 179, where *Mr. E. D. Halsey* was recalled on rebuttal; and on pages 119 to 126, where he was sworn for the plaintiff on the principal case, and also for the defendant.

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As to the *first point* made by the plaintiff in error (page 11-12 of his brief) I have already dealt with that, (*ante* page 6).

I submit that if the Court determines that there is no other error in the record besides that in relation to the charge of the Court—that plaintiff below could recover on the bonds assigned to him for collection—then there should be no costs awarded in this Court against the defendant in error, since he offered to submit to a reversal or correction of the judgment before these costs, or at least the greater part of them, were incurred.

In the *Bernards Township* cases this Court did not dismiss the bill as to those bonds which were actually owned by non-residents, but, in substance, affirmed the decrees as to those.

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As to the *second point* in the brief of plaintiff in error.

There was no dispute made in the Court below but that plaintiff below was the *bona fide* owner of nine one hundred dollar bonds of those that were sued upon.* *Mr. Edmund D. Halsey* swore that he had charge of his brother *Abraham's* business in New Jersey, and of his securities here, and that his brother had determined to bring a suit in the Federal Courts on his own bonds, and that the other bond holders were invited to join, and did join, in a combination suit in order to save expense. The combination was made with the consent and suit brought by the express direction of *Abraham*.

There was not the least glimpse of evidence that so far as concerns *Abraham Halsey's* nine bonds the suit was not brought in good faith for the benefit of *Abraham Halsey.* The case was submitted to the jury without argument, upon the requests to charge of the defendant below, and upon the judge's charge.

Those requests (page 191–192) not only did not ask the Court to submit to the jury the question of the *bona fides* of the plaintiff's ownership and possession of the nine bonds, but they expressly admit such *bona fides.* (See requests on part of defendant, No. 1 and 5, p. 191–192.)

Not only, then, do the facts of this case carry it entirely beyond *Hayden vs. Manning*, 106 U. S., 586; *Detroit vs. Dean*, 106 U. S, 537; *Farmington vs. Pillsbury*, 114 U. S., 138; but the Court was not even asked to apply the principle of those cases to this.

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As to the *third point*, namely, that there was an over-issue of bonds.

The case is within the authorities cited (*ante* p. 23) and moreover the commissioners plainly intended to confine the issue of the bonds to the ten per cent. authorized by the Statute.

The character and effect of the recitals is discussed, *ante*, p. 19, *et seq.*

The case of the *School District vs. Stone*, 106 U. S.,

* The brief of plff. in error admits (p. 14) that plaintiff below was the bona fide owner of three hundred dollars in amount of the bonds as distributee of his father's estate. The arrears of interest added would make more than $500. See statements, *ante* p. 28a and *infra* p. 37.

183, relied upon by plaintiff in error, does not help him.

In the first place there was, in that case, no attempt on the part of the authorities to keep within the constitutional limit of 5 per cent. That limit would have reduced the issue of bonds to less than $2,500, while, in fact, $15,000 were issued.

In the second place: The bonds in that case did not, as here, purport to be issued "*in pursuance of*" &c., and the Court at p. 187 distinguish it on that express ground in the following language:

> "Numerous cases have been determined in this Court, in which we have said that where a statute confers power upon a municipal corporation, upon the performance of certain precedent conditions, to execute bonds in aid of the construction of a railroad, or for other like purposes, and imposes upon certain officers—invested with authority to determine whether such conditions have been performed—the responsibility of issuing them when such conditions have been complied with, recitals, by such officers, that the bonds have been issued '*in pursuance of*' or 'in conformity with,' or 'by virtue of,' or 'by authority of,' the statute, have been held, in favor of *bona fide* purchasers for value, to import full compliance with the statute, and to preclude inquiry as to whether the precedent conditions had been performed before the bonds were issued."

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This question has been lately considered in New Jersey by the Supreme Court in the case of *Cotton vs. New Providence*, 2 Eastern Reporter. p. 794—a suit upon one of this very issue of bonds—in the following language:

> "It is next insisted that the declaration does not show that the whole issue of bonds, of which the bond declared on was one, did not exceed in the aggregate the amount the commissioners were authorized to issue. The act fixed a limit to the amount of

"bonds to be issued. They were not to exceed ten per cent. of the valuation of the real estate and landed property of the township, to be ascertained by the assessment rolls thereof for the year 1867. The contention under this reason, is that every bond issued in excess of the limit would be void, and therefore it should appear that the bond in question is within the limit.

"Whether a bond issued in excess of the limit would be void or not depends on the authority conferred by the act on the officers who were to issue the bonds.

"In the case of *The Mutual Ben. Life Ins. Co. v. Elizabeth*, 13 *Vr.* 235, the question involved was discussed and settled. The learned Chief Justice in his opinion says, 'the question will ever be, was it the intention of the law maker in the particular case to endow the officer executing the bonds or some other functionary with the power to adjudge that the condition precedent has been performed.' And it was held that a legislative intent to make a particular officer a tribunal to decide whether the prerequisites to the exercise of the authority existed, will not be inferred when the act provides that the existence of such prerequisites shall be made matter of record. In such case the purchaser of the bonds must look to the record for assurance of title. But when the authority of an officer is dependent on facts, the existence of which is exclusively or at least peculiarly within his knowledge, the legitimate conclusion is that the legislative intent was to invest him with the right to decide as to the existence of such facts, and his decision was meant to be final, so far as respected purchasers for value and without notice of any flaw in the transaction.

"The principle was thus applied in that case. Authority had been given the City to issue bonds for the amount of assessments ratified and unpaid on a certain day. What assessments were ratified and unpaid on that day could only be ascertained by examination of the City's books and accounts and only with reasonable certainty by its officers. Bonds issued largely in excess of the limit of authority were declared to be enforceable, and it was held that purchasers had a right to rely on the action of the officers, who, by issuing the bonds, affirmed that the conditions requisite for their issue existed.

"The case has been affirmed by the Court of Errors and the principle adopted governs the question here presented.

"The limit of the issue of bonds in this case, depended on the valuation of the real property of the Township for a certain year, to be ascertained from the 'assessment rolls' (by which I assume was meant the duplicate) for that year. Whether the duplicate of assessments of taxes is a public record or not, and in whose custody it lawfully remains after the expiration of the term of office of the collector to whom it was delivered, are questions that have been mooted but not decided. *Hilyard v. Harrison*, 8 *Vr*. 170. However they may be answered *it is clear that the duplicate in this case, although a public document, was not readily accessible to intending purchasers, but was especially accessible to the township officers and the commissioners entrusted with this power. When they issued bonds, they averred that the issue was within the limit.* Construing the act by the rule laid down in the case cited, the legislative intent that their decision on this subject should be final appears. The holder of the bonds had a right to rely thereon. For this reason I feel constrained to hold that bonds issued beyond the limit would be enforceable, and therefore that the declaration need not show that the bond sued on was within the limit."

*Cotton vs. New Providence*, and the earlier case of *Morrison vs. Bernards*, 7 Vroom 219, were both decided upon demurrer to the declaration.

The question of the conclusiveness of the consent-papers filed in the County Clerk's Office, and that of the estoppel arising from the recitals in the bonds, were not properly, in either case, before the Court.

On demurrer the question is one of *allegation*, and the questions above stated belong rather to the region of *proof*.

In the *Morrison* case the Chief Justice at page 223 does, indeed, discuss the question whether an estoppel arises from the *mere issue* of the bonds, and comes to the conclusion that it does not.

The effect of recitals in the bonds themselves was not raised or discussed

But, it is manifest that the Court looked upon duly verified consent-papers on file in the Clerk's Office as conclusive proof of the facts stated in the affidavits annexed.

At page 224 of 7 Vroom, the following language is used:

"The statute in question is a public act; the com-
"missioners are the special, and not the general agents
"of the corporate body, *and their capacity to issue*
"*these bonds is made dependent on the vote of a spe-*
"*cified body of persons.* In general, those dealing
"with a special agent must inform themselves, at their
"peril, of the extent of the authority of such agent,
"and the present is, certainly, not an occasion in
"which the rigor of this principle should be in any
"degree relaxed. *The act directs that the evidence of*
"*the existence of the authority of the commissioners*
"*shall be put upon the public files, so that the fact*
"*whether the bonds have a legitimate existence can be*
"*easily and* CERTAINLY *ascertained.* If a purchaser
"takes them without inquiry, and they turn out to be
"illegal, because a prerequisite has been omitted, the
"embarrassment of his position is attributable to his
"own carelessness; and if a loss is to be incurred, it
"is more just that it should fall upon him rather than
"upon the public, who is in no default."

The passage italicised is significant. It manifestly refers to the "*consent papers*," with the several affidavits of the commissioners and assessor annexed as provided for in the second section of the Bonding Act.

This opinion was pronounced in 1873, and it is quite clear that some of the views there expressed upon the subject of estoppel have been somewhat modified in accordance with the course of judicial expression in other courts.

See *Mutual Benefit Life Insurance Company vs. Elizabeth*, 13 Vroom 235, at p. 242, *et seq.*

At p. 246 bottom, the Court says:

"The question will ever be, was it the intention of
"the law maker in this particular case to endow the
"officer executing the bonds, or some other function-
"ary, with the power to adjudge that the condition
"precedent has been performed; and herein is ground
"for a wide divergence of opinion. This is the single
"point of real difficulty, because if the officer ap-
"pointed to decide definitely has so decided, the mat-
"ter is at an end, the only subject remaining being
"how such judgment is to be proved, whether by a
"recital in the executed instrument, or by extraneous
"evidence. For my own part, I am not able to con-
"cur in the view that a legislative intention to make a
"particular officer a tribunal to decide whether the
"prerequisites of the exercise of the authority existed
"at the time of its exercise, can be raised up by con-
"struction alone, *when the same act provides that the*
"*existence of such prerequisites shall be made a mat-*
"*ter of record. In such case, it seems to me, that the*
"*purchaser of the bond is informed that he must look*
"*to this record if he seeks an* INFALLIBLE *assurance*
"*of title.*"

Here again it is clear that the learned Ch. Justice has in view the verified "*consent papers*" the absence of which he referred to in *Morison's* case.

And again, at p. 247-248:

"But at the same time, while to this extent I think
"it altogether an inadmissible construction, under the
"circumstances mentioned, to infer from one of these
"laws, framed in the usual way, an authority in the
"officer to annul by his contradictory statement the

"*prescribed evidence* of the fulfilment of the condi-"tion precedent, such inference is, in my judgment, in "another class of cases entirely legitimate. *I refer to "those instances in which the authority of the agent "is made to depend on a certain state of facts whose "existence or non-existence is exclusively or at least "peculiarly within the knowledge of such agent.* In "such a condition of things the assumption is not "forced that it could not have been the design to re-"quire, in view of the circumstance that the bonds to "be issued were to be negotiable, every holder to as-"certain at his peril that which on many occasions "would have been practically unascertainable. In "such case the deduction becomes well nigh irresisti-"ble that the tenure of instruments of this character "was not intended to be so obscure and precarious. "Hence the legitimate conclusion is that the intent was "to invest the officer, who was alone conversant with "the facts, with the right to decide as to the existence "of such facts, and that such decision was meant to "be final so far as respected purchasers for value and "without notice of any flaw in the transaction."

These views so expressed sustain my position (*ante*, p. 13) that the consent-papers duly verified and filed became conclusive record evidence of the fact that the requisite majority of taxpayers had signed them. And we are not obliged to rely upon the recitals in the bonds themselves to prove that fact.

---

Mention is made in plaintiff's brief that Mr. *Wilcox* —the assessor who made the affidavit—did not hold that office for the year 1867. But he was clearly the officer designated by the second section of the act to perform that duty.

The act was passed April 9, 1868, and the consents were obtained in the Summer of 1868, and the affidavit made on the 9th of November, 1868. Mr. *Wilcox* was the assessor for that year.

---

Further mention is made of the circumstance that the bonds were taken to the Clerk's Office to be registered by Colonel *Saunders*, who was an employee of the Railroad Company. That all the bonds were duly registered and so certified by the Clerk before they were put upon the market, was an admitted fact. Being produced in that condition with a date of registry very nearly coincident with the date of the bond, every presumption should be made in favor of their regularity in that respect.

The request to charge (No. 4) was that the burden was on the plaintiff to prove that they were registered before delivery to the Railroad Company in exchange for stock.

The Judge charged (p. 196) that that question could not be started as against a *bona fide* holder.

He might have charged that the presumption was that they were so registered ; but the effect is the same, and the charge of the Court is clearly right.

The evidence of Colonel *Saunders* (p. 126 et seq.,) shows that he did the work of the commissioners—prepared the consent-papers and affidavits ; took the bonds to the Clerk's Office to be registered, at the very date they were delivered to the company. They were so delivered in instalments of about $8,500 each, or ten per cent. of the whole subscription.

It would be a refinement of technicality to hold that the validity of the bonds in the hands of a *bona fide* holder shall depend upon the fact whether they were registered immediately before, or immediately after, they were formally delivered to the Railroad Company.

The railroad, to aid in the construction of which these bonds were issued, was constructed through New Providence, and has been ever since continuously operated giving the inhabitants direct and frequent communications with New York. The object of the undertaking has been accomplished, and surely it is no hardship upon the township to be compelled to pay its debt incurred for that purpose.

H. C. PITNEY,
*Counsel for Deft. in Error.*

## FURTHER REMARKS ON THE NEW JERSEY CASES.

In *Bernards Township vs. Stebbins*, 109 U. S., 341, this Court, in speaking of the rulings of the State Courts of New Jersey upon this act, uses this language at p. 352:—

"The consent of a majority of all the taxpayers of "the township has been held necessary by the Court "of Chancery and by the Supreme Court of New Jer-"sey. The Chancellor, in granting an injunction "against the issue of bonds without such consent, ex-"pressed the opinion that the want of such consent "would afford no defence at law after the bonds had "been once issued, and had come into the hands of "innocent holders for value. *The Supreme Court de-"cided otherwise. Lane v. Schomp*, 5 C. E. Green, "82; *Morrison v. Bernards*, 7 Vroom, 219. The "question has not, so far as we are informed, been "passed upon by the Court of Errors."

I respectfully submit that this statement is based upon a misapprehension of the scope of the decisions in the two cases in question.

The decision in *Morrison v. Bernards*, was, as before remarked, upon demurrer to the declaration, which (7 Vroom, 219) did not contain any allegation that the consent of a majority of the tax payers had been obtained, or that the proof of such consent, made in accordance with the terms of the statute, had been filed in the County Clerk's office.

All that the State Supreme Court decided (p. 222, et seq.) was that a purchaser of bonds, purporting to be issued under the act in question, was bound to take notice of the provisions of the act in that behalf, and to look in the place where the record evidence of this prerequisite of a majority consent having been obtained was to be found, and that he could not rest upon the mere execution and issuance of the bonds when the act provided that "the evidence of the existence of "the authority of the Commissioners shall be put upon "the public files so that the fact whether the bonds "have a legitimate existence can be easily and *cer*-"*tainly* ascertained."

The State Supreme Court did not decide that if such record evidence existed its truth could be disputed as against a *bona fide* purchaser. Its language indicates the contrary, and that, if the proper proof was so filed, it agreed with what was declared by the Chancellor in *Lane v. Schomp*, 5 C. E. G., 82.

The language of the Chancellor at p. 89, 5 C. E. G., is, "it seems settled by repeated decisions, both in the Fed-"eral and State Courts, that if bonds are once issued "with such *prima facie proof that the statute has* "*been complied with*, and get into the hands of inno-"cent holders for value, the township will be com-"pelled to pay them."

I submit there is no discord between the two opinions, and both are based on the idea that as against a bona fide purchaser the record proof is unassailable.

H. C. PITNEY.

## COPY OF BOND.

"No. UNITED STATES OF AMERICA. $1,000

"TOWNSHIP OF BERNARDS, SOMERSET COUNTY,
"STATE OF NEW JERSEY.

"The Inhabitants of the Township of New Providence, in the County of Union, acknowledge themselves to owe to bearer One Thousand Dollars, which sum they promise to pay the holder hereof, at the American Exchange National Bank in the City of New York, Nine years after the date hereof, and also interest thereon at the rate of seven per cent. per annum, payable semi-annually on the first days of July and January in each year, until the said principal sum shall be paid, on the presentation of the annexed Interest coupons, at the said Bank.

"This bond is one of a series of like tenor, amounting in the whole to the sum of Eighty-five Thousand Dollars, issued on the faith and credit of said township, in pursuance of an act entitled 'An Act to authorize certain towns in the Counties of Somerset, Morris, Essex and Union, to issue bonds, and take stock in the PASSAIC VALLEY AND PEAPACK RAILROAD COMPANY,' approved April 9th, 1868.

"In testimony whereof, the undersigned, Commissioners of the said Township of New Providence, in the County of Union, to carry into effect the purposes and provisions of the said act, duly appointed, commissioned and sworn, have hereunto set our hands and seals, the first day of January, in the year of our Lord one thousand eight hundred and sixty-nine.

"*Commissioners*,
JONATHAN BONNEL, [Seal.]
JARVIS JOHNSON, [Seal.]
JOHN LITTELL, [Seal.]

"Registered in the County Clerk's Office.

"HENRY R. CANNON,
"*County Clerk.*"

## OPINION OF THE COURT BELOW.

## UNITED STATES CIRCUIT COURT.

### DISTRICT OF NEW JERSEY.

ABRAHAM HALSEY,
*vs.*
THE INHABITANTS OF THE TOWNSHIP OF NEW PROVIDENCE, IN THE COUNTY OF UNION.
*On Demurrer to Replication.*

BY NIXON, DISTRICT JUDGE.

The plaintiff, describing himself as a resident and citizen of the State of California, has brought this suit against the Township of New Providence, in the County of Union, New Jersey, for the recovery of fifteen thousand dollars, principal and interest due upon several bonds alleged to have been issued by the defendant corporation.

The declaration sets out the filing of the consent papers, with the affidavits annexed, required by the act of the Legislature authorizing the bonds; the making and issuing the same, with the recital upon their face of the authority under which they were issued, and that the plaintiff was the holder and bearer, by purchase for a valuable consideration, in the open market.

The defendants, after the general issue, plead specifically—

(1.) That John M. Wilcox, who made the affidavits in the declaration mentioned, was not the Assessor of the Township in the year 1867.

(2.) That the consent papers authorizing the amount of money to be raised in the Township was not signed by a majority of the tax payers, as required by the statute.

(3.) That the Commissioners, as such, did not borrow money on the faith of the Township, nor negotiate the bonds for money.

(4.) That the affidavit of Wilcox, the Assessor, was not true, and that the persons whose names were signed to the consents did not in 1867, or afterwards, constitute a majority of the tax-payers of the Township nor represent a majority of the real property in value.

(5.) That the bonds were not registered in the office of the Clerk of the County of Union before they were negotiated and sold ; and

(6.) That the Commissioners failed to execute a bond, with two or more sureties, for the faithful performance of their duties, before entering upon the duties of their office.

The plaintiff, after replying to the several pleas *seriatim* adds a replication to the fourth, fifth, sixth, seventh, eighth, ninth, tenth and twelfth pleas, alleging, in substance, that after the said Jonathan Bonnell, Jarvis Johnson and John Littell, in the declaration mentioned, had been appointed and sworn as Commissioners for the defendant township, and after the filing in the office of the Clerk of the County of Union of the paper writing so signed by the persons purporting to be tax payers of the County, with the several affidavits of the Commissioners and Assessors annexed, and after the defendants, by the hands and under the seals of the Commissioners, had made and executed the several bonds in the declaration mentioned, and after the same had been endorsed as registered in the office of the Clerk of the County of Union, as therein alleged, to wit, on the 1st of July, 1870, the same, and each of them, were by the said Commissioners sold, negotiated and delivered, for a valuable consideration received, to divers innocent purchasers thereof, in the open market, in the usual course of business, and without any notice or knowledge whatever of any of the several matters and things in the said pleas in this replication mentioned, to wit, to Samuel B. Halsey, John Marsh, Chas. F. Ogden, John L. Baldwin, Edwin Ford, Joseph

Lovell, Caroline E. Scofield and James Jackson, all of the County of Morris and State of New Jersey, which several persons afterwards, to-wit, on the day and year aforesaid, duly assigned and transferred the said bonds to the plaintiff, who then and there became and hath ever since continued to be the lawful owner and holder thereof.

To this replication the defendants have demurred, and the ground of the demurrer is that the facts disclosed by the replication show that the Court has no jurisdiction of the case.

Do these facts, to wit, the original ownership of the bonds by citizens of the same State in which the defendant corporation resides and from or through whom the plaintiff derived title, deprive the Court of jurisdiction?

The answer of the question involves the construction of the 1st section of the act of March 3, 1875 (18 Stat., 470), which enacts that "no circuit or district court "shall have cognizance of any suit founded on con- "tract, in favor of an assignee, unless a suit might "have been prosecuted in such court to recover there- "on, if no assignment has been made, except in cases "of promissory notes negotiable by the law merchant, "and bills of exchange." It will be perceived, on examination, that this is a re-enactment of the 11th section of the Judiciary Act, with a change of phraseology, as to the subject matter of the suit. The latter specifies a "suit to recover the contents of any "promissory notes, or other choses in action," while the recent enactment embraces "any suit founded on "a contract," and excepts "promissory notes and "bills of exchange."

The object of both is the same—to prevent persons assigning contracts to nominal parties, residing in other States, merely to clothe the court with jurisdiction from the residence of the litigants. This replication is put in to claim for the plaintiff the benefit of the well known doctrine that a purchaser with notice may invoke in his behalf the want of notice of a prior innocent holder.

The defendants by demurring thereto confess the truth of its allegations and acknowledge that the plaintiff is a *bona fide* holder of the bonds, without notice of the alleged defects in their inception. *City of Lexington vs. Butler*, 14 *Wall.*, 295.

It is conceded that such municipal bonds are contracts, but they are not the contracts that are contemplated by the section of the statute under consideration. It is not a contract which the maker of the bonds enters into with the original holder, who transfers his right of action by assignment to a subsequent holder, but one made with every holder of a bond who has the right of action by reason of his *bona fide* possession. Such bonds have all the qualities of negotiable paper and pass from hand to hand without assignment, and hence come within the spirit, if not the letter, of the exception stated in the act.

The observations of the learned Judge (Story) in *Bullard vs. Bell*, 1 *Mason*, 252, although suggested in reference to notes issued by a banking institution, are quite pertinent to the case of municipal bonds. He says: "A note payable to bearer is often said to "be assignable by delivery; but in correct language "there is no assignment in the case. It passes by mere "delivery, and the holder never makes any title by or "through any assignment, but claims merely as bearer. "The note is an original promise by the maker to pay "any person who shall become the bearer; it is there- "fore payable to any and every person who successive- "ly holds the note *bona fide*, not by virtue of any as- "signment of the promise, but by an original and direct "promise moving from the maker to the bearer."

To the same effect was the opinion of the Supreme Court in the case of *Smith vs. Clapp* (15 *Pet.*, 125), where it was held that the plaintiff, to whom had been assigned a promissory note payable to A B or bearer, was not an assignee within the provisions of the 11th section of the Judiciary Act, although in the declaration filed he had averred that the note had been duly assigned over and delivered to him, whereby he became the bearer, &c. The Court said it was obvious from the fact that the note was payable to bearer, that the assignment was by delivery merely and not by endorsement, which must be in writing, and hence, that the holder did not come within the prohibition of the law. See also

*Bradford vs. Jenks*, 12 *McLean*, 130;
*White vs. Railroad Company*, 21 *How.*, 575. ;
*Thompson vs. Lee County*, 3 Wall., 327, and
*City of Lexington vs. Butler*, *supra*.

Taking this view, it is not necessary to consider whether the several pleas to which the replication is an answer, show any defence to the declaration. The Court has heretofore expressed its opinion fully upon the question, in previous suits of a like character, on motions to strike out such pleas.

The Demurrer is overruled.

A true copy,
[L. S.] S. D. OLIPHANT,
*Clerk.*

## NOTICE TO COUNSEL FOR PLAINTIFF IN ERROR.

SUPREME COURT OF U. S.

THE INHABITANTS OF THE TOWNSHIP OF NEW PROVIDENCE IN THE COUNTY OF UNION
*vs.*
ABRAHAM HALSEY.

*On Error to the Circuit Court for the District of New Jersey.*

TO THOMAS N. MCCARTER,
*Att'y & Counsel of Pl'ff in Error.*

With a view to save further costs and litigation herein, the defendant in error hereby makes the following offer, viz.:

That as to the sum of $14,030.78, being that portion of the verdict which was based upon bonds numbered 3, 6, 7, 8, 46, 48, 49, 50, 51, 110, 111, 115, 122, 123, 124, 127 and 128 respectively, as set forth in the record, the judgment be at once reversed with permission to the defendant in error to discontinue as to those bonds, and to strike from the record the counts founded thereon.

As to the sum of $1,746.43, being that portion of the verdict which was based upon bonds numbered 101 to 109 inclusive, the judgment be affirmed, and that the Court may make such order as to the costs incurred in this Court as it shall deem just.

Or, that the Court be requested at once to pronounce judgment on the basis of the plaintiff being entitled to recover only upon the bonds numbered 101 to 109 inclusive, and that as to all the other bonds mentioned in the record the plaintiff was not entitled to recover, on the ground that he was not the *bona fide* owner of them, they being owned by residents of the State of New Jersey and placed in his hands for collection, the defendant in error hereby admitting that in this respect the case is within the ruling of this Court in the case of *Stebbins, Executor, &c., vs. The Township of Bernards.*

Yours, &c.,
H. C. PITNEY,
*Att'y of Def't in Error.*

Dated January 23, 1884.

[END.]

SUPREME COURT OF U. S.

| | |
|---|---|
| The Inhabitants of the Township of New Providence, in the County of Union, vs. Abraham Halsey. | On Error to the Circuit Court for the District of New Jersey. |

To T. N. McCARTER,
*Att'y & Counsel Pl'ff in Error.*

H. C. PITNEY,
*Sol'r of Def't in Error.*

Service of a copy of within acknowledged Jan'y 24, 1884.

THOMAS N. McCARTER,
*Att'y of Pl'ff in Error.*

## STATEMENT.

STATEMENT of the amount of the proportion of the Judgment due to Abraham Halsey.

| | |
|---|---|
| Seven bonds for $100 each, being numbers 101–107 inclusive, due January 1, 1875, | $700.00 |
| Two bonds of $100 each, viz., 108 and 109, due January 1, 1876, | 200.00 |
| Principal due January 1, 1875, | 700.00 |
| Int. 6 years, 4 months and 26 days to May 26, 1881, to date of judgment, | 313.86 |
| Principal due January 1, 1876, | 200 |
| Int. 5 years, 4 months and 26 days to May 26, 1881, to the date of judgment, | 75.67 |
| Coupons, | 301.00 |
| Int. on the same to July 4, 1878, at 7 per cent., | 103.63 |
| Do. from July 4, 1878, to May 26, 1881, at 6 per cent., | 52 27 |
| | $1,746.43 |

## APPLICATION TO JUDGE TO APPOINT COMMISSIONERS.

*To the Judge of the Circuit Court of the County of Union, in the State of New Jersey:*

We, the undersigned, being twelve or more freeholders, residents of the Township of New Providence in said County, which Township is situate along the route of the Railroad of the 'Passaic Valley and Peapack "Railroad Company" do hereby apply to the Judge of the Circuit Court of the said County wherein such Township is situated, to appoint under his hand and seal three freeholders, residents of such Township, to be Commissioners for such Township, to carry into effect the purposes and provisions of the Act of the Legislature of the State of New Jersey, entitled, "An Act "to authorize certain towns in the Counties of Somer-"set, Morris, Essex and Union to issue bonds and take "stock in the Passaic Valley and Peapack Railroad "Company," approved April 9, 1868, who shall hold their offices, respectively, for the term of five years, and until others shall be appointed.

Dated 22d June, A. D., 1868.

| WITNESS. | SIGNATURES. |
|---|---|
| John Wood, as to J. Johnson signature. | JARVIS JOHNSON. |
| Jarvis Johnson, as to John Wood's signature. | JOHN WOOD. |
| Willoughby Powell, as to signature of Geo. W. Nichols. | GEO. W. NICHOLS. |
| Geo. W. Nichols, as to signature of W. Powell. | WILLOUGHBY POWELL. |
| Jarvis Johnson, as to A. A. Constantine's signature. | A. A. CONSTANTINE. |
| Jarvis Johnson, as to James S. Sanford. | JAMES S. SANDFORD. |
| D. R. Valentine, as to B. P. Potter signature. | BENJAMIN P. POTTER. |

E. G. Potter, D. R. VALENTINE.
as to D. R. Valentine signature.
Jarvis Johnson, S. R. VALENTINE.
as to S. R. Valentine's signature.
Mamie A. Johnson, ANN M. JOHNSON.
as to Ann M. Johnson's signature.
Jarvis Johnson, JONATHAN M. MUIR.
as to Jonathan M. Muir's signature.
Jarvis Johnson, AMOS POTTER.
as to Amos Potter's signature.
Jarvis Johnson, JONATHAN P. BONNELL.
as to Jonathan P. Bonnell's signature.
Sam'l R. Valentine, W. E. SAMSON.
as to W. E. Samson's signature.
D. R. Valentine, JOHN LITTELL.
as to John Littell signature.
John Littell, JOHN T. WILCOX.
as to John T. Wilcox signature.
E. W. Starr, PHILEMON DICKERSON.
as to Philemon Dickerson.
D. R. Valentine, E. W. STARR.
as to E. W. Starr signature.
S. R. Valentine, S. BADGLEY.
as to S. Badgley signature.
S. R. Valentine, DAYTON BADGLEY.
as to Dayton Badgley's signature.
Jarvis Johnson, JACOB D. MULFORD.
as to Jacob D. Mulford's signature.
Jarvis Johnson, JOHN R. BURNETT.
as to John R. Burnett's signature.
J. N. Doty, MATTHIAS DOTY.
as to Matthias Doty signature.
Matthias Doty, ISRAEL DOTY.
as to Israel Doty Signature.
Israel Doty, J. N. DOTY.
as to J. N. Doty signature.
E. D. Badgley, HENRY WILCOX.
as to Henry Wilcox signature.
J. M. Wilcox, Jr., EDMUND A. WILCOX.
as to Edmund A. Wilcox signature.

E. A. Wilcox, JOHN M. WILCOX.
as to John M. Wilcox signature.

C. V. FREDERICKS,
D. W. BONNELL,
JOHN H. ALLEN.

I do hereby certify that twelve or more of the foregoing signatures are Freeholders and residents of the Township of New Providence.

JOHN T. WILCOX,
*Collector and Postmaster.*

STATE OF NEW JERSEY, *Union County.* } *ss.*

Be it remembered that on this thirtieth day of June in the year of our Lord one thousand eight hundred and sixty-eight, before me, personally appeared Daniel R. Valentine, who, being by me duly sworn according to law, did depose and say that he resides at New Providence in said County, that he is acquainted with more than twelve of the several persons whose names are signed to the annexed application, and that more than twelve of them are freeholders and residents of the Township of New Providence in the County of Union aforesaid, and that the said Township of New Providence is situate along the route of the Railroad of the "Passaic Valley and Peapack Railroad Company," and that the facts, matters and things stated in said application are true, and that this deponent is familiar with the signatures of more than twelve of said freeholders and residents, and that the signatures of such persons attached to said application are genuine.

DANIEL R. VALENTINE.

Subscribed and sworn to before me at New Providence the day and year above written. }

JOSEPH C. NOE,
*Justice of the Peace.*

This application was presented to me on the 29th of June, 1868, at Newark, when I adjourned the hearing to July 6, 1868, at the Court House in Elizabeth, at which time I proceeded to make the appointment, and direct the Clerk to enter the same on the minutes of the Court.

July 6, 1868.

DAVID A. DEPUE,
*Judge.*

STATE OF NEW JERSEY, } *ss.*
*County of Union.* }

I, HENRY R. CANNON, Clerk of the County of Union, do hereby certify the foregoing to be a true and correct copy of the Application for appointment of Commissioners for Passaic Valley & Peapack R. R., in the Township of New Providence, N. J., as filed in my office July 6th, 1868.

In testimony whereof, I have hereunto set my hand and seal this 9th day of August, A. D., 1877.

[L. S.] HENRY R. CANNON, *Cl'k.*

## APPOINTMENT OF COMMISSIONERS.

## THE STATE OF NEW JERSEY.

*To all to whom these presents shall come, Greeting:*

Know ye, that upon the application of twelve and more freeholders, residents of the Township of New Providence, in the County of Union and State of New Jersey, situate along the route of the Railroad of the Passaic Valley and Peapack Railroad Company, in virtue of the requirements of the Act of the Legislature of said State, entitled "An Act to authorize certain "towns in the Counties of Somerset, Morris, Essex and "Union to issue Bonds and take stock in the Passaic "Valley and Peapack Railroad Company," Approved April 9, 1868, the Circuit Court of the County of Union wherein such township is situated, Have and Do hereby appoint Jarvis Johnson, Jonathan Bonnell and John Littell, three freeholders and residents of such township, to be Commissioners for such Township, to carry into effect the purposes and provisions of the said act, who shall hold their offices respectively for the term of five years, and until others shall be appointed agreeably to the provisions of said act.

In Testimony Whereof, I, David A. Depue, Judge of the said Circuit Court, have caused the seal of the said Court to be hereunto affixed.

Done under my hand and seal this Sixth day of July, in the year of our Lord One thousand eight hundred and Sixty-Eight.

[L. S.] DAVID A. DEPUE, [L. S.]
*Judge.*

Done in open Court
By the Judge.
HENRY R. CANNON,
*Clerk of said Circuit Court.*

STATE OF NEW JERSEY, }
*County of Union,* } *ss.*

I, James S. Vosseller, Clerk of said County, do hereby certify the foregoing to be a true and correct copy of a certain "Appointment of Commissioners for the "Township of New Providence," as remains of file in my office.

In testimony whereof, I have hereunto set my hand, and affixed the seal ot said County, this sec-
[L. S.] ond day of November, A. D. 1885.

JAS. S. VOSSELLER, *Clerk.*

# Extracts from the "Act concerning taxes," as found in Nixon's (N. J.) Digest, Fourth Edition, 1868.

An Act concerning Taxes—Revision. Approved April 14, 1846.

*938]

1. The Assessor of every township shall, between the twentieth day of May and the twentieth day of August, annually, take a true account, and make out an exact list of the persons, lands, chattels, effects, and estates, including certainties made ratable by law in that year, by which all assessments during the said year shall be regulated and made; and every inhabitant of the township shall, on application of the assessor, forthwith render a full and true account of his name and his ratable lands, chattels, effects, and estates as aforesaid, which the assessor shall set down in writing, in order that the legislature may ascertain the proportion or quota of each county, and that every individual may be duly and justly assessed. (See 84, 116.)

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3. When any money shall be directed to be assessed, collected, and paid into the treasury of this state, agreeably to this act, it shall be the duty of the assessors of the several townships, in every county, to meet at the hour of ten in the forenoon of the first Monday in September, in every year, at the place of holding the court of common pleas in such county, and at such meeting to furnish full, true, and accurate abstracts, under oath or affirmation, from their respective tax books, of ratable lands, chattels, effects, estates, and certaimies, so by them respectively made, as required in the first and second sections of this act, and then and there to ascertain the amount of the certainties required by law to be rated in the assessment to be made, and to estimate the estate, real and personal, taken by the assessor of each township, at such valuation as they or a majority of them then present shall think reasonable and just, according to the law for the time being for that purpose, and thereby to adjust and fix the proportion or quota of the tax to be levied and collected in each township. (See 94.)

4. It shall be the duty of the said assessors, at such meeting, to make out two abstracts of the amount of all the ratables in each township, in the manner heretofore practised, designating in separate columns in said abstracts the amount of quotas, if any, of county, poor and road tax, to be assessed and collected in the different townships, and also the number of taxable inhabitants in each township; which shall be signed by every assessor present, and on the same day delivered to the county collector, who shall lay one of the said abstracts before the legislature, during the course of the first week of their stated annual session.

5. The said assessors shall, within fifteen days after such meeting, deliver to the township collector a true transcript or duplicate of the said assessment, in which they shall add together the sums contained in each column, and place such aggregate sum at the foot of each column, through every page.

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6. The amount of the certainties shall be deducted by the said assessors from the quoto or sum apportioned to every township, and the remainder of the said quoto or sum, with the fees of assessment, collection, and paying over to the treasurer, shall be assessed on the other taxable property within such township, according to the valuations aforesaid, at such rate per dollar as will be sufficient to produce the sum required. (See 84.)

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8. If any person shall think himself aggrieved by such assessment, he may appeal to the commissioners of appeal in cases of taxation, in and for the proper township, who are hereby required to convene on the fourth Tuesday of November, annually, for the purpose of discharging the duties of their office in all matters arising under this act.

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11. The township collector, within sixty days after receipt of the transcript or duplicate of the said assessment, shall demand payment of the tax or sum assessed on each individual in his township, in person or by notice left at his or her place of residence, and also give notice of the time and place of the meeting of the said commissioners of appeal; and the said collector shall pay the taxes by him collected, and the fines and forfeitures by him received, by virtue of any law of this state, to the collector of the county, by the twenty-second day of December in every year. (See 110.)

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47. The commissioners of appeal in cases of taxation, in and for
every township, shall, for the purpose of discharging the duties of
their office, convene at the usual place of holding town meeting,
*945] and at such times, where it is not otherwise directed by law, as
they shall appoint, giving at least eight days' previous notice of
every such meeting in writing, under their hands, and fixed up at six
or more of the most public places in such township. (See 8.)

48. It shall be the duty of the assessor who made the assessment appealed from, to attend at the said time and place before the said commissioners, and to offer such reasons as he may think proper in support of the said assessment.

49. The said commissioners, after due examination of the facts and consideration of the case, shall give such judgment as shall be agreeable to the principles of justice, which judgment shall be final and conclusive, and shall be rendered within three days after the hearing of the said appeal.

50. It shall be the duty of the said commissioners to give a transcript of their judgment to the appellant, in case such judgment shall pass in his or her favor, which transcript shall be a sufficient voucher to such appellant; and the collector of such township, in collecting the taxes of the same, and every other officer whom it may concern, is hereby directed to govern himself accordingly.

Supplement. Approved March 9, 1848.

57. Sec. 2. If any person or persons, body politic or corporate, shall be assessed at too low a rate, or be omitted in the assessment, it shall be lawful, upon complaint made, for the commissioners of appeal in cases of taxation, after five days' notice in writing to the party interested, by the party complaining, and after due examination of the facts and consideration of the case, to make such addition to the assessment as shall be agreeable to the principles of justice; and the judgment of the said commissioners shall be final and conclusive, and shall be rendered within ten days after the making of said complaint. (See 103.)

A further supplement to an an act entitled "An act concerning taxes," approved April fourteenth, eighteen hundred and forty-six.
Approved April 11, 1866.

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94. Sec. 12. When any money shall be directed to be assessed for state or county purposes, it shall be the duty of the assessors of the several townships and wards in the county to meet at the time prescribed by law in every year at the place of holding the court of common pleas in such county, and each of the said assessors shall produce his duplicate of the value of real and personal estate to be by him assessed, with the amount of each column and the total of all the columns correctly added together, and shall also produce an affidavit by him subscribed and taken upon his oath or affirmation before some person authorized to administer oaths, of the following or like tenor and effect, viz: "I, ——— assessor of———, do hereby swear (or solemnly affirm), that I have diligently inquired respecting the nature and value of the real and personal estate liable to taxation in the township (or ward) whereof I am assessor, and have to the best of my ability, and without favor or partiality, valued all the said property liable to taxation in said township (or ward) at its full and fair value, at such price as in my judgment said property would sell for at a fair and bona fide sale by private contract on the day prescribed by law for commencing the assessment, and have deducted from such value only such balance of debts as is prescribed by law;" and if any assessor shall be unable to attend such meeting, it shall be his duty to send his duplicate with the affidavit aforesaid, and in case any assessor neglecting to attend, or to produce or send his duplicate and affidavit aforesaid, the majority of the assessors convened shall estimate the value of the property liable to assessment in the township or ward of the absent assessor, according to the best of their information and belief. (See 3.)

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103. Sec. 21. The collector, immediately after having received his duplicate from the assessor, shall submit the same to the committee of the township or common council of the city or borough whereof he is the collector, and it shall be the duty of said committee and common council carefully to examine the same, and if they have reason to believe that any individual or corporation has been assessed at too low a rate, or omitted to have been assessed, as required by law, they shall thereupon authorize and require the collector to notify the

said individual or corporation that complaint will be made to the commissioners of appeal in cases of taxation, and the said collector shall, at least ten days before the time of meeting of said commissioners, deliver to said individual or leave at his dwelling house or deliver to the president, cashier, treasurer, clerk or secretary, or if no such officer can be found, to any director of the corporation, or leave at the place of business of such corporation, a notice in writing or printing of the following or like tenor, viz: "To : You are hereby notified that complaint will be made to the commissioners of appeal in cases of taxation at , on next, that you have been assessed at too low a rate (or omitted to be assessed), to the end that, after due examination of the facts such addition may be made to your taxes as shall be right and proper and according to law;" and it shall be the duty of the collector to attend before said commissioners and to present the complaints and to supœna all proper and necessary witnesses and pay them their fees, and he shall receive out of the public money two dollars for every day he shall so attend.

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110. Sec. 28. The notice first required by the eleventh section of the act to which this is a further supplement, shall be in writing or printed, and shall set forth the number of acres assessed, the value of the real estate, and of the personal estate assessed to each one, and of the rate per dollar assessed and the several sums assessed on each person or corporation for state, county, township, poor, school, road, poll, dog and other taxes, as the same are stated on the duplicate, and the time and place of the meeting of the commissioners of appeal; and if any collector shall neglect to deliver said notice as required by the said eleventh section of the aforesaid act, he shall forfeit to each person or corporation assessed, and residing in his township or ward, whose notice he shall neglect to deliver, the sum of fifty dollars, to be recovered by action of debt in any court of record of this state.

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A further Supplement to an act entitled "An act concerning taxes," approved April fourteenth, eighteen hundred and forty-six. Approved April 11, 1867.

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115. Sec. 1. The township committee of each township, and the common council of each town, borough and city in this state shall meet and hold meetings at their usual places of meeting in their respective townships, towns, boroughs and cities, on the third Tuesday in August of each year, for the purpose of examining, revising and correcting the duplicate of assessment to be laid before them in the manner hereinafter provided for.

116. Sec. 2. Assessors shall hereafter finish making their assessments on or before the third Monday in August of each year.

117. Sec. 3. The assessors of the several townships, towns, wards, boroughs and cities in this state shall, on the third Tuesday in August of each year, attend the meeting of the committee or council of his township, town, borough or city, and lay before them the duplicate of assessment, to be by them examined, revised and and corrected; and that it shall be his duty to remain with said council, for the purpose of explaining the said duplicate, and assisting said committee or council in the discharge of the duties required of them by this act.

118. Sec. 4. Said committees and councils respectively shall have power to adjourn from time to time, as they may deem expedient, for the purpose of discharging the duties required of them by this act: *Provided*, the said examination, revision and correction shall be made and completed on or before the last Saturday in August of each year.

# BONDING ACT, April 9th, 1868.

## CHAPTER CCCXCVII.

An Act to authorize certain towns in the counties of Somerset, Morris, Essex and Union to issue bonds and take stock in the Passaic Valley and Peapack Railroad Company.

1. Be it enacted *by the Senate and General Assembly of the State of New Jersey*, That on the application in writing of twelve or more freeholders, residents of any township in either of the counties of Somerset, Morris, Essex or Union, situate along the route of said railroad, it shall be the duty of the circuit court of the county wherein such township is situated, within ten days after receiving such application to appoint, under his hand and seal, not more than three freeholders, residents of such township, to be commissioners for such township to carry into effect the purposes and provisions of this act, who shall hold their offices respectively for the term of five years and until others shall be appointed.

2. *And be it enacted*, That it shall be lawful for said commissioners to borrow on the faith and credit of their respective townships, such sum of money not exceeding ten per centum of the valuation of the real estate and landed property of such township to be ascertained by the assessment rolls thereof respectively, for the year eighteen hundred and sixty-seven, for a term not exceeding twenty-five years, at a rate of interest not exceeding seven per centum per annum, payable semi-annually, and to execute bonds therefor, under their hands and seals respectively, the bonds so to be executed may be in such sums and payable at such times, and places, as the said commissioners and their successors may deem expedient; but no such debt shall be contracted or bonds issued by said commissioners, of or for either of said townships, until the written consent shall have been obtained of the majority of the tax payers of such township or their legal representatives, appearing upon the last assessment roll as shall represent a majority of the landed property of such township (including lands owned by non-residents) appearing upon the last assessment roll of such township, such consent shall state the amount of money authorized to be raised in such township, and that the same is to be invested in the stock of the said railroad company, and the signatures shall be proved by one or more of the commissioners, the fact that the persons signing such consent are a majority of the tax payers of such township, and represent a majority of the real property of such township, shall be proved by the affidavit of the assessor of such township endorsed upon or annexed to such written consent, and the assessor of such township is hereby required to perform such service; such consent and affidavit shall be filed in the office of the clerk of the county in which such township is situated, and a certified copy thereof in the town clerk's office of such township, and the same or a certified copy thereof shall be evidence of the facts therein contained, and received as evidence in any court of this state, and before any judge or justice thereof.

3. *And be it enacted,* That the said commissioners authorized by this act may in their discretion dispose of such bonds or any part thereof, to such persons or corporations and upon such terms as they shall deem most advantageous for their said township, but not for less than par, and the money that shall be raised by any loan or sale of bonds, shall be invested in the stock of the said railroad company for the purpose of building the aforesaid railroad, and said money shall be applied and used in the construction of said railroad, its buildings, equipment and necessary appurtenances, and for no other purpose, the commissioners respectively in the corporate name of each of their said townships shall subscribe for and purchase stock in said railroad company, to the amount they may have severally borrowed as aforesaid, and by virtue of such subscription or purchase of stock upon receiving certificates for the amount of said stock so subscribed for or purchased by them, the said townships shall acquire all the rights and privileges respectively of other stockholders of said company, and it shall be lawful for the commissioners provided for in this act, or either of them, with the consent of the others, or a majority of the said commisioners, to participate in and to act in all the regular and legally authorized meetings of the stockholders, and either of them may act as directors of said company if he shall be duly elected as such.

4. *And be it enacted,* That the said commissioners respectively authorized by this act shall report to the township committees of their respective townships, at their regular annual meeting in each year, the amount required to pay principal or the interest, if any, on the said bonds authorized to be issued under and by virtue of this act, due or to become due, and payable during the next ensuing year; the dividends arising from the stock so subscribed for, or purchased by said township in pursuance of this act, or so much thereof as may be necessary, shall be received by said commissioners and by them applied to the payment of the interest which shall from time to time accrue upon the bonds authorized by this act; and in case such dividends shall not be found sufficient in any one or more years to pay the principal and interest accruing on said bonds due and to become due as aforesaid, it shall be and hereby is made the duty of the said township committee, and they are hereby authorized and required, to cause to be assessed and levied and collected of the real estate and landed property of said townships respectively, at the same time and in the same manner as other taxes are assessed, levied and collected, such sum or sums of money as shall have been reported to said township committee, by the said commissioners authorized by this act, to be necessary to make good such deficiency in the payment of the said principal and interest on the said bonds, and the same when collected shall be paid to said commissioners respectively, and by them applied to the payment of the principal and interest on said bonds, or so much thereof as shall remain unpaid after the application of said dividends to that purpose.

5. *And be it enacted,* That it shall be lawful for such railroad company to agree with the said commissioners respectively in behalf of their respective townships, to pay the same annual interest accruing on the bonds issued by such townships for the term of three years, or

until said railroad shall be completed and in operation, and earning sufficient to pay dividends equal to the interest from time to time accruing on said bonds.

6. *And be it enacted,* That the said commissioners appointed under and by virtue of this act, may, at any time after acquiring such capital stock, exchange the same in whole or in part for the bonds issued under the authority of this act, and in such case they shall cancel the bonds so received by them, or they may dispose of such stock in their discretion to any purchaser or purchasers for cash, but shall not sell or dispose of such stock at less than par, except at public sale, of which twenty days' notice shall be given in two newspapers published in their respective counties; but no such sale shall be made except by consent obtained to the extent and in the manner provided in the second section of this act; and in case of sale of said stock, either at public or private sale, the proceeds thereof shall be applied by said commissioners respectively to the purchase or redemption of the bonds authorized to be issued by this act, and for no other purpose whatever.

7. *And be it enacted,* That at the expiration of twenty-five years after the passage of this act it shall be and hereby is made the duty of the said board of assessors, and they are hereby authorized, unless the payment of said bonds is otherwise provided for, to cause to be assessed and levied and collected on the real and landed estate of each of said townships, at the time and in the manner as other taxes are assessed, levied and collected the sum due on the said bonds so issued in pursuance of this act, together with the interest on said principal sum, or so much thereof as may remain unpaid by reason of the deficiency of the dividends and sale of said stock; the amount so to be raised under the authority of the said township committees for the payment of the principal or interest shall be determined by the report of the said commissioners, respectively, to the said township committee as hereinbefore authorized by this act.

8. *And be it enacted,* That the said commissioners shall also provide, within five years from the time of issuing said bonds, for the annual payment of at least five per centum of the same so as to insure the final liquidation of said bonds within twenty-five years after their date, and for that purpose they shall receive and apply annually the surplus dividends on the stock held by said townships over the amount necessary to pay the semi-annual interest on said bonds; and if the amount of such surplus dividends is not sufficient for the annual payment of said five per centum, and the said commissioners shall not have received sufficient from the sale of stock as herein provided to pay the same, then the deficiency shall be reported by the said commissioners to the township committee, to be levied and raised annually in the manner herein provided for paying the interest on said bonds.

9. *And be it enacted,* That before the said commissioners, or either of them, shall enter upon the discharge of their duties under this act, they shall jointly and severally, with two or more sureties, execute to their respective townships by their respective corporate names, a bond in the penal sum equal to the amounts to be issued to said townships

under and by virtue of this act, conditioned for the faithful discharge of their duties as commissioners under this act, and for the just and honest application by them of all moneys, stocks or bonds issued by them or coming into their hands, according to the true intent and meaning of this act; the sufficiency of such sureties shall be determined by the township committee of such township respectively, or by the judge of the circuit court of the county in which such township is situated, to be endorsed on said bonds; said bonds shall immediately thereafter be deposited with the clerk of each of said townships, to be safely kept under the direction and control of the township committee, to be collected by them or their successors in office, for the use and benefit of said township, in case the said commissioners, or either of them, are guilty of such a breach of duty or malfeasance in office as to render said bond collectable.

10. *And be it enacted,* That in case a vacancy shall happen by reason of death, removal from said township, resignation or refusal to serve or otherwise, of either of said commissioners provided for in this act the vacancy shall be filled by the remaining commissioners of the township in which the vacancy so exists, by appointment, in writing, to be deposited with the township clerk of said township; each and every person so appointed shall, before he enters upon the discharge of his duties, execute and deliver to the said township in like manner, a bond in like amount, with like conditions and securities as hereinbefore provided; and all provisions of this act shall apply to the successors of the commissioners provided for in this act, whose powers and duties and liabilites shall be the same as those of the commissioners first appointed under this act.

11. *And be it enacted,* That each of the said commissioners shall receive the sum of two dollars per day for each day actually engaged in the discharge of his duties under this act, and his necessary disbursements to be audited and paid by the township committee the same as other township expenses.

12. *And be it enacted,* That the commissioners in each of said townships shall constitute a board to act for their said townships respectively, and a majority of said commissioners in each of said boards shall constitute a quorum to do any business authorized by this act.

13. *And be it enacted,* That on the expiration of the term of office of either of the commissioners provided for in this act, or of their successors, his place shall be filled in the manner provided in the first section of this act, and the commissioners so appointed, as well as those to be appointed under the tenth section of this act, shall be residents and freeholders of the township for which they are to act as such commissoners.

14. *And be it enacted,* That all bonds issued in accordance with the provisions of this act shall be registered in the office of the county clerk of the county in which the township is situated, issuing the same, and the words "registered in the county clerk's office," shall be printed or written across the face of each bond, attested by the signature of the county clerk when so registered, and no bond shall be valid unless so registered.

15. *And be it enacted,* That this act shall be a public act, and shall take effect immediately.

Approved April 9, 1868.

117 U. S. 340.

# TRANSCRIPT OF RECORD.

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## SUPREME COURT OF THE UNITED STATES.

**OCTOBER TERM, 1885.**

No. 1135.

GEORGE C. RAND, JUNIOR, APPELLANT,

*vs.*

MARTHA A. WALKER.

APPEAL FROM THE CIRCUIT COURT OF THE UNITED STATES FOR
THE NORTHERN DISTRICT OF ILLINOIS.

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**FILED OCTOBER 17, 1885.**